

Tennessee Judicial Nominating Commission
Application for Nomination to Judicial Office

Rev. 22 December 2011

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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 seventeen (17) 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.

I am a Partner at McCarter, Catron & East, PLLC.

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

I received my license to practice law in 2004 and my Board of Professional Responsibility number is 023552.

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.

I am not licensed in any other state.

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 have never been denied admission to, suspended or placed on inactive status.

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).

Shuttleworth, Williams, PLLC August 2004-May 2007

Dotson, Dotson & McCarter May 2007-July 2009

McCarter, Catron & East, PLLC. July 2009-Present

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.

I have been continuously employed since the completion of my legal education.

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 have diversified my legal practice throughout my career. The current makeup of my legal practice is 60 % Criminal Law; this includes General Sessions, Circuit and Juvenile Courts. 25% Domestic Law, this includes Circuit, Chancery and Juvenile Courts. 10% Insurance Defense, this includes General Sessions, Circuit and Chancery Courts. 5% Personal Injury Law, primarily in Circuit and Chancery Courts.

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 was licensed to practice law in October, 2004 and immediately began my law career with Shuttleworth, Williams, PLLC in their Murfreesboro office under the tutelage of attorneys Christopher Thompson and Andrew Tolbird.

Originally, my practice included insurance related cases, personal injury cases including social security disability, civil litigation including contract and landlord/tenant and some collection matters. I also practiced criminal law and domestic law.

Upon leaving Shuttleworth Williams, PLLC., I began my practice with Dotson, Dotson and McCarter. While at Dotson, Dotson & McCarter I had the privilege to be mentored by Guy Dotson, Sr., Guy Dotson Jr., and Bert McCarter. My practice at this point focused on criminal law, domestic law, insurance defense and personal injury.

Since July, 2009, I have been a partner at McCarter, Catron & East, PLLC. Since taking part in

the opening of my own office, I have primarily focused my practice on criminal law, domestic law and insurance defense. I also practice personal injury law. I have diversified my practice in a manner so that I can help as many people as possible. I have always based my practice on making sure my clients have the information necessary to make the best decision possible for themselves and their families. I feel my role has always been to give clients the legal advice and information so that they can make the decision that is best for them. This advice may include what I believe a certain judge may or may not do as well as explaining to the client the positives and negatives about settling a case or taking it to trial.

I have represented clients in hundreds of criminal cases involving just about every crime at the Juvenile, General Sessions and Circuit Court levels and I have experience with the Criminal Court of Appeals. This experience includes both jury and nonjury trial experience. I have found in criminal cases that it is important for my clients to understand the criminal court process; including explaining to them the process for getting discovery and sharing the discovery with them so that they better understand their cases. This includes watching arrest videos with them, explaining the sentencing guidelines and where they may fall within those guidelines and making sure the client knows the ramifications of pleading guilty to a crime in Tennessee and nationwide.

Domestic law has always been a major part of my practice. I have trial experience with divorce, custody and parenting time issues, as well as orders of protection. I have dealt with alimony and child support modifications. My practice has also included drafting pre- and postnuptial agreements. In divorce actions, I have dealt with dividing assets and liabilities. I have helped clients with children in determining custody, child support and parenting time as well as helping them through post divorce matters involving contempt and non-contempt issues. My domestic practice has always included cases at the Juvenile Court level dealing with parentage issues, child support, dependant and neglect matters, and I have served several times as a guardian ad litem.

Insurance law was the first area of law I learned out of law school. I am proud to say that through three law firms, the same company has followed my practice and allowed me to work for them. I have insurance defense trial experience at the General Sessions, Circuit and Chancery Courts throughout Middle Tennessee. When dealing with these cases I assist the adjusters and claims managers in evaluating the value of claims, the potential settlement of claims, advise them of current jury trends in the judicial districts in which I am most familiar and give them a synopsis of the potential jury pool. It is also my responsibility to file the necessary paperwork, both to protect my client and keep the case moving in a forward direction.

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

Reginald C. Malone, Sr. v. State of Tennessee, M2011-01033-CCA-R3-PC. This was an appeal for post conviction relief following a conviction for felony possession cocaine. The Criminal Court of Appeals granted my client leave to file a Motion for New Trial.

State of Tennessee v. Robert L. Adams, M2012-00916-CCA-R3-CD. This case was appealed after my client fled following during jury deliberation. The case was appealed by appointed counsel. The Criminal Court of Appeals denied the appeal.

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 sat multiple times as a Judge in the General Sessions Court for the 16th Judicial District. As part of this I presided over preliminary hearings, plea agreements reached between the Defendant and the State and made rulings on issues regarding bonds for Defendants. I have done this many times and had numerous other opportunities to sit. I am unsure of the exact dates and times of my service.

I have never served as a mediator or arbitrator. I have on, several occasions, helped conduct what is commonly known in our district as an “informal mediation.” This consists of the attorneys along with the parties meeting to see if an agreement can be reached. This is typically done in domestic law cases.

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.

None

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

I have a Bachelor of Science from Middle Tennessee State University in Criminal Justice. Also, I have in the past and currently volunteer at the Christian Legal Clinic run through Green House Ministries. This involves meeting with individuals who generally cannot afford legal services but are faced with a situation that would require legal representation.

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.

I have never submitted an application for judgeship.

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.

Tallahassee Community College, Tallahassee, Florida, Fall, 1997 (Transfer to M.T.S.U.)

Middle Tennessee State University, Bachelors of Science 2001, Majored in Criminal Justice with Minors in Political Science and Psychology.

Appalachian School of Law, Doctor of Jurisprudence 2004.

PERSONAL INFORMATION

15. State your age and date of birth.

I am 33 years of age, Date of Birth, October 15, 1978.

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

I lived continuously in Murfreesboro, Rutherford County, Tennessee from birth until I graduated High School and moved to Florida for four months. I then returned to Murfreesboro to complete my undergraduate degree. I stayed in Murfreesboro until I moved to Grundy, Virginia to complete my Juris Doctor. Once I completed law school I, returned to Murfreesboro and have been here since.

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

Nine years.

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

Rutherford.

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.

None.

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.

I have never been disciplined or cited for breach of ethics or unprofessional conduct. I have had two complaints made to the Board of Professional Responsibility. One in 2008, File Number 30903-4-TH, dismissed and closed on April 4, 2008 and one in 2012, File Number 34791-4-PS.

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.

Yes. I have been a party to two legal proceedings, one dealing with my practice of law.

(1) Kristin Weaver v. Kirk Catron, Rutherford County Circuit Court Case No. 57728, Filed 09/03/2008, Order of Dismissal signed by Judge Royce Taylor 08/24/2009. In this matter, I represented a wife in a divorce action which involved the custody of the minor child and the removal of the minor child to California by my then client. My involvement in this matter lasted through a *pedente lite* hearing. I advised my client that the Court would likely frown upon her removing her child from the State of Tennessee without the Father's knowledge. Despite my advice, the child remained in California while we conducted the hearing. Despite my best efforts, the Judge ruled that the child would need to be returned to the Father immediately, disappointing my client and myself. In the days following the hearing, during settlement negotiations, my client terminated my employment over what I thought was a fee dispute. I filed a Motion to Withdraw as counsel of record and was later released from the case. I received a complaint through the Board of Professional Responsibility and several months after its dismissal and I was sued for malpractice. The case against me was later non-suited by her counsel. I was represented in this matter by Daryl Lowe of the Knox County Bar, and I will sign any documentation necessary to allow him to discuss this matter with any member of the Judicial Nominating Commission.

(2) Deborah Trotter v. Kirk D Catron, Rutherford County Circuit Court Case No. 64981, Filed July, 5, 2012. This case involves a motor vehicle accident I was involved in sometime in July 2011. The case is currently in litigation. No citations were given.

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.

Blue Raider Athletic Association, Middle Tennessee State University, Board of Directors 2010-2012.

DreamCatchers, Board of Directors 2011-present

Sigma Alpha Epsilon, Tennessee Beta Chapter, Middle Tennessee State University, Chapter Advisor 2009-2012

Sigma Alpha Epsilon, Tennessee Beta Chapter, Middle Tennessee State University, Housing Corporation 2010-present.

Stones River Country Club, May 2011-present

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.
- 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.

None.

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.

Rutherford/Cannon County Bar Association, 2004-present

Tennessee Bar Association, 2012

National College for D.U.I. Defense, 2011- present

Association Of Trial Lawyers of America, 2006

Andrew Jackson American Inns of Court, 2010-present

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.

In 2010 I was invited by my peers to Jin the Andrew Jackson American Inns of Court.

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.

June, 17, 2010-Survey of Rules for the 16th Judicial District, CLE

January 27, 2011-Driving Under the Influence, CLE

April 26, 2012-Domestic Law Seminar, Changes and Pitfalls, CLE

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.

I have never run for public office.

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

No.

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

See attached hereto examples of my legal writing:

- (1) The first example is a brief filed on behalf of my client, the Appellant. The case involved a conviction for felony possession of cocaine. I was appointed to this matter to appeal the conviction based upon ineffective assistants of counsel. The Court of Criminal Appeals partially ruled in my client's favor, by remanding the case back to the trial court to allow him to file a Motion for New Trial. The case is currently pending before the Circuit Court of Rutherford County.
- (2) The second case involved is an appeal I filed on behalf of a client challenging a change of custody that was heard before the Chancery Court of Rutherford County. I challenged the fact that even though the court ruled that my client was not the proper party to be the primary residential parent, the court allowed her to maintain custody for a period of 45 days after the ruling.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position not only because it has been a lifelong goal of mine to become a judge,

it also a position I can excel in with a patient and calm demeanor. I feel that the time is right for a fresh perspective on how to operate the courts' dockets and develop, along with the local bar, a system that is both fair and time efficient.

I will create an atmosphere where the litigants, attorneys, and the public feel that they are welcomed and will receive a fair, impartial, and valued experience. I have been in many courts throughout the mid-state in which litigants and attorneys both felt that the Judge had already made up his or her mind prior to the case being called or did not allow the parties to be heard. I believe a judge should truly serve the people of this state. If given this opportunity, I will work in an efficient manner to bring a sense of fairness, impartiality, and community to this position.

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)*

Over the past five years, I have accepted referrals from the Legal Aid Society of Middle Tennessee, and I have volunteered with the Christian Legal Clinic, currently based at Greenhouse Ministries in Murfreesboro on a monthly basis. This is a program designed to help individuals who cannot afford an attorney or have no idea if they have a case and if they do, which way to turn.

Throughout my legal career, I have happily accepted appointments in criminal matters from the General Sessions, Circuit and Juvenile Courts. I take pride in putting as much effort into these matters as I would a case in which I was retained. I am appointed to these cases because the Judge believes that I will not only give full effort, but will also handle the case in professional manner.

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 the position of Circuit Court Judge for the 16th Judicial District, Rutherford and Cannon Counties, Tennessee. This court has concurrent civil and criminal jurisdiction. Typically, the position held has mainly presided over the criminal dockets with a few civil matters integrated on a monthly basis. There are currently four Circuit Court Judges, including the position being applied for. The 16th Judicial District also has One Chancery Court Judge and five General Sessions Judges, a Juvenile Judge with a full time Magistrate and a part time Magistrate. The 16th District is also fortunate enough to have a Child Support Magistrate.

The current setup of this Court fits the experience I have in dealing with both criminal and civil litigation, and I will be able to work hand in hand with the current Judges to make the 16th Judicial District an even better place to practice law.

38. Describe your participation in community services or organizations, and what community

involvement you intend to have if you are appointed judge? *(250 words or less)*

Having been born and raised in this community makes this position all the more important to me. Throughout my life I have been involved in this community, whether it be through volunteer work or giving. I have had the honor of being on the Board of Directors for the Blue Raider Athletic Association, where I helped raise money for student athletes at Middle Tennessee University. I have also been honored to be on the Board of Directors for DreamCatchers, a nonprofit organization that provides pediatric occupational therapy. I have worked with the Christian Legal Clinic in Murfreesboro, allowing me the opportunity to integrate my love for the law with my love for the community. My involvement with Sigma Alpha Epsilon Fraternity has allowed me to help students prepare for their future. I am a graduate of the 2010 class of Leadership Rutherford. Through this program I was learned about the inner workings of Rutherford County, from local government, education and business perspectives.

I plan to make this judgeship a community position; it is not my job, it belongs to the citizens of Rutherford and Cannon Counties. I will take time to meet with civic organizations so that they can better understand the services the Circuit Court provides. The most important step I plan to take is coordinating my contacts with Middle Tennessee State University to develop an internship program so that students interested in the law can gain experience with the judicial system.

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 began working at the age of 16 at the truck stop my Father managed. Being the boss' son had zero perks. I got to do jobs such as cleaning the showers and toilets. I asked why I had to do this. He told me I was following people that were going down the wrong path. Two weeks later one of the individuals I had been friends with ingested illegal drugs and shot himself. I learned that you cannot be a follower; you have to be a leader and surround yourself with others who want to succeed. I carry that advice with me to this day. I believe as a Circuit Court Judge I can be a better community leader.

I love working with people. I love working with my clients, charitable organizations and college students. Working with the charities and the Christian Legal Clinic has shown me more community leaders are needed. As a Judge I will carry my love for people with me to the bench and work with community.

The most important talent I can bring to this position is my ability to empathize with people. I have been through tragedy and achieved success. I will treat everyone before the Court with dignity and respect. I will use my people skills to create a committee of local attorneys, clerks, District Attorneys and Public Defenders that will help the Court perform at the most efficient level possible. The system will not work without the assistance of the community to provide guidance.

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 will uphold the law even if I disagree with it. The Tennessee General Assembly has written the laws of this state and as Judge; it is my job to uphold those laws regardless of my personal beliefs. I experienced this issue multiple times in my criminal practice, specifically in the arena of multiple DUI offenses. As a client's attorney, it is my job to provide the best defense possible, while continuing to uphold the law. Personally, I disagree with the fact that multiple DUI offenders are allowed to have the right to drive at all, much less with little restriction. I personally represented a client with six DUI offenses, and under my diligent representation, he received the statutory punishment, which was only serving a sentence of 150 days, losing his license for eight years. My personal feelings are that these repeat offenders are obviously not being rehabilitated through the penal system, as this client in particular had already served multiple sentences, only to be released on good behavior and drive under the influence again. Even having these feelings, I am committed to the law as it is written and will continue to work hard to help my clients receive the adjudication most fitting to their situation under the law.

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.

John T. Bobo, Attorney Bobo, Hunt & White [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Travis Morris, Owner, The Pallet Company [REDACTED] [REDACTED] [REDACTED]
Derek Howard, Attorney [REDACTED] [REDACTED] [REDACTED]
Anna Watts, Claims Supervisor Consumers Insurance [REDACTED] [REDACTED] [REDACTED]
Richard Stone, Vice President

Capital Bank

[REDACTED]
[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 Circuit Court for the Sixteenth 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: _____, 20_____.

Signature