

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 or 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.

Attorney at Law, private practice.

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

1985. 011326.

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.

None other than 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).

Before graduation from law school, I was judicial law clerk in the summer of 1983 for Judge Charles O'Brien, then Judge on the Tennessee Court of Criminal Appeals. After graduation, I was employed after graduation in 1984 as Madison County prosecutor in Jackson, Tennessee under District Attorney General Jerry Woodall, 26th Judicial District. From March, 1986 until the present I have practiced law in Henderson, Tennessee first in partnership with my father, the Honorable F. Lloyd Tatum, and later with Michael L. Weinman. I now practice in partnership with my wife, Selinde Mullady Tatum.

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.

Criminal law, 33%; Domestic litigation, 30%; plaintiff's civil litigation, 15%; civil defense litigation 10%; Probate, 5%; Real estate litigation 2%; Employment, 1%; Other, 4%.

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.

My experience can best be described as busy and varied. I began my career as a prosecutor in Madison County, Tennessee and tried several jury trials under the tutelage of District Attorney Jerry Woodall, Roger D. Moore and Leigh Grinalds. In private practice I have tried civil and criminal jury trials in federal court in west and middle Tennessee. I have litigated a federal admiralty claim in Kentucky. I tried a civil jury trial in Roanoke, Virginia as counsel pro hac vice (settled on the third day of trial). I have tried to jury verdict dozens of criminal cases ranging from driving under the influence to capital murder. For a few months in 2005 I served as part-time Assistant Public Defender in this district when that office became temporarily short-staffed.

I have handled 3 death penalty cases. One pled to a lesser included offense pre-trial. In another the state withdrew the death notice on the second day of trial. (The defendant in this case was acquitted of all charges.) The third death penalty case I defended was tried to a Madison County jury in 2006 and resulted in a conviction and a sentence of death. I was 2nd chair at trial and on appeal in that case. That experience was the highest challenge I have had as a lawyer. I believe representing one facing the death penalty is the highest challenge a trial lawyer can have.

I have had a busy appellate practice not only in the Tennessee appellate system but also in the federal system litigating criminal and civil appeals in the 6th Circuit. I cannot remember a time since 1987 that I did not have at least one matter pending in the appellate courts.

I have tried many different types of civil claims before a jury representing at times the plaintiff, at times the defendant. I won a personal injury civil verdict in excess of \$500,000. In addition to personal injury cases, I have tried to jury verdict eminent domain, fire insurance, sexual harassment, civil rights and contract breach cases.

I have also litigated first amendment claims for night club owners in state and federal court. I have found these cases to be among the most interesting from an intellectual standpoint..

To a limited extent, I have represented social security claimants in the social security disability system through the administrative law judge hearing and on appeal therefrom and, less recently, workers compensation cases, both plaintiff and defense.

Early in my career I handled many loan closings/real estate purchases for local banks and the Farmers' Home Administration. I found this difficult to maintain as my litigation practice grew. Notwithstanding, my practice continues to include drafting wills, deeds and powers of attorney. Like any general, small town practitioner, I have had an active domestic relations practice in Chancery and Juvenile courts all over rural west Tennessee.

If appointed, I will observe the same business-like work schedule my private law practice has demanded of me. I will maintain a respectful demeanor while remaining courteous to court staff, my colleagues on the bench and the attorneys practicing before me. I will be open minded and fair to all and maintain a high moral standard in both my professional and personal life.

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

See # 8 above.

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.

From 1997 to 2003 I served as a hearing committee member for the Board of Professional Responsibility of the Supreme Court of Tennessee. I have occasionally mediated domestic law disputes between parties in my law practice. I don't think any of these matters were particularly remarkable for anyone other than the parties; however I do feel that my experiences in these matters were instructive to me.

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 was a member of the board of trustees for the Augustine School in Jackson, Tennessee from 2006 to 2010. I have also served as vestry member at All Saints Anglican Church, Jackson, TN from 2009 to 2010 and at St. Luke's Episcopal Church, Jackson, TN in 2003.

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

My experience practicing law is summarized in my answers to the other questions in this application. However, I think my responsibilities as an employer and mentor to others have been fulfilling. I helped mentor several younger attorneys in the Jackson, TN area that have gone on to become successful. I take some pride in that.

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 sought appointment to fill a vacancy on the Tennessee Court of Criminal Appeals in January, 1999. The Judicial Selection Commission met on February 19, 1999. My name was not submitted to the Governor as a nominee.

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.

From the fall of 1974 to the spring of 1978 I attended Southwestern at Memphis, (now Rhodes College), and earned a Bachelor of Arts degree majoring in United States History. From the fall of 1981 to the spring of 1984 I attended Cumberland School of Law, Samford University, Birmingham, Alabama and earned a Doctor of Jurisprudence.

While in law school I was selected for the Dean's List on two occasions and vice-president of the Tennessee Bar Association, Student Division. I was a finalist in the fall, 1983 Gordon T. Saad Appellate Advocacy Moot Court Competition. In 1984 I was selected to represent the school in the Jessup International Law Moot Court Competition in New Orleans, Louisiana.

PERSONAL INFORMATION

15. State your age and date of birth.

Fifty six. November 30, 1956.

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

Twenty eight years.

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

Twenty six years.

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

Chester County.

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

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.

I paid speeding tickets in Madison County General Sessions Court, 1998 and Fayette County General Sessions Court, 2010.

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.

The yellow pages advertisement for my law firm failed to note non-specialization in medical malpractice soon after a rule change approximately 12 years ago. This resulted in a private admonition. This was corrected as soon as we were notified.

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.

Out of the thousands of matters I've handled over the years I have had to sue four former clients to recover delinquent legal fees. In Gibson County Chancery Court # 2365 in 1991 I sought to reform a defective legal description in a deed of trust that a client had given me to secure legal work. After he paid the balance owed, that case was non-suited. In Chester County General Sessions Court # 6982, I sued a client in 1997 to recover a fee and won. This was paid in full by the client. In Chester County General Sessions Court # 12GS1-2003-CV-72 in 2003 I sued a former client to recover a fee and reached a compromised settlement. In Chester County General Sessions Court # 12GS1-2011-CV-60 in 2011 I sued a former client to recover a fee and won. This was paid in full by the client.

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.

I was a member of the board of trustees for the Augustine School in Jackson, Tennessee from 2006 to 2010. I have also served as vestry member at All Saints Anglican Church, Jackson, TN

from 2009 to 2010. I am also a member of the athletic booster clubs for Trinity Christian Academy, Jackson, TN and Lyon College, Batesville, Ark. I have also done some work for the Salvation Army.

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.

Possibly. I was a member of the Jackson County Club in Jackson, TN for approximately 6 months in the early or mid-1990's. They may have limited membership at that time based on race or religion, although I am not sure. I have no intention of joining such an organization in the future.

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.

I have been a member of the Tennessee Bar Association and Tennessee Association of Criminal Defense Lawyers for each of the last 10 years. I served in the House of Delegates for the Tennessee Bar Association. I was also a member of the First Amendment Lawyers Association in 2002.

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.

I was selected by Business Tennessee magazine as one of the "Best 101 Lawyers in Tennessee" for 2005, one of the "Best Lawyers in Tennessee" in 2006 and as a "Mid-South Super Lawyer" in 2009. I was recognized by West Tennessee Legal Services, Inc. for "Outstanding Service to the Community" in 2001.

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.

None other than that noted at # 13.

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.

These are 100% my work.

ESSAYS/PERSONAL STATEMENTS

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

I am seeking this position because I know I will be a good circuit judge. Good judges are needed on the circuit court bench. I was raised in this district. I know the people here and I know their expectations. Over the last 27 years, I have known and practiced before the judges on this circuit court. I have learned from them. I know the high standards they have set. I am challenged to meet those standards. My career as a lawyer has provided me with qualifications for this position that make a difference. At a personal level, I would be excited by a position that would demand of me my very best every day.

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 have participated in pro bono programs sponsored by West Tennessee Legal Services these past 26 years. Additionally, I routinely give pro bono advice to indigent people in my practice. I have always viewed pro bono work as a debt owed to the community. As the law becomes more specialized, it will take a more diverse population of lawyers to be able to meet the needs of indigents. I would encourage these specialists in the law to help the indigent.

I have never turned down a Rule 13 appointment from any court, inside or outside of this judicial district, unless I was ethically prohibited from representation. I accepted Rule 13 appointment in the last capital case in which I was involved. I know the sacrifice that lawyers who take these cases make. I also know how critical to our system their work is. When I ask lawyers to accept these cases in the future, I will not be asking them to do what I have not already done.

If I am appointed judge, I will take every speaking opportunity to further equal justice under law. I will model this by applying the law to the facts in a fair and impartial manner and do whatever else I can to insure that our system is blind to matters of race, religion, gender, socio-economic status or any other unfair bias.

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)*

The judgeship I seek is part of the 26th Judicial District, which contains Madison, Chester and Henderson counties. The circuit court in this district is made of three divisions. These courts hear criminal and civil cases. The vast majority of the cases are criminal.

The judgeship I seek is division three formerly held by Judge Roger Page. Judge Page demonstrated a deliberate and even judicial temperament that lawyers on all sides greatly appreciated. He is also admired for insuring that alleged crime victims knew about the progress of their case.

The other two divisions of this circuit are held by Judge Roy Morgan and Judge Donald Allen. I have known these individuals for over 26 years. At the beginning of my career I served with Judge Allen as prosecutor under Jerry Woodall, the attorney general for this judicial district. I count these judges as close friends and colleagues. I am confident I could work well with them on the 26th judicial circuit court bench.

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 was a member of the board of trustees for the Augustine School in Jackson, Tennessee from 2006 to 2010 and volunteered legal services to the school in 2011. I have also served as vestry member at All Saints Anglican Church, Jackson, TN from 2009 to 2010 and at St. Luke's Episcopal Church, Jackson, TN in 2003. This service has given me leadership experiences that have taught me much about how important our churches and schools are to the future of our community. Giving to our youth is always rewarding.

I have also been a member of the Henderson Kiwanis Club and coached Dixie Youth Baseball (our Henderson 12 year olds, which included my youngest son, won the state championship last year!). My children are very active in local sports and my wife and I have volunteered time and money in support of their tennis, basketball, football and baseball teams. I am also a member of the athletic booster clubs for Trinity Christian Academy and Lyon College in Arkansas.

I believe lawyers and judges should educate the public about our system and as Judge, I would seek opportunities to do that.

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 have been married to my wife Lynn for 25 years. We met in law school. I have partnered with her to raise 4 children, Lindy and George, ages 13, Frank, age 17 and Roger, age 19. This has been the most rewarding and challenging experience of my life. The roles of husband and father, as well my practice of law, have taught me the value of being a good listener. A good judge must be an inquisitive and good listener.

It has also been my great fortune to have Judge F. Lloyd Tatum as my father and law partner. Judge Tatum served for 10 years on the Tennessee Court of Criminal Appeals in 1976 after a long and successful law practice. He later served as special judge on the trial and appellate bench. He has modeled for me a sober, deliberate, reflective and hard-working temperament that a good judge must exhibit. He handed down to me his love of the law, especially of criminal law. He taught me how to be a good lawyer by practicing law with me for several years. I have also had the opportunity to engage in his discussions with other judges about what qualities a good judge and lawyer must possess.

My academic experiences have given me a love for life-long learning. I believe a good judge should be a reader. While he must read to keep abreast of the law, he should read to continue growing as a person. His learning should be as broad as possible. He should strive to think critically and ask questions. He should have a multitude of interests. My interests extend not only to law, but to Shakespeare, classical music performance and history, theology, geology, natural history, World War II history, sports, literature and science. There is not a time in my life that I am not reading something. I have tried to model life-long learning for my children. I also tout it with members of the court and the bar.

Lastly, a good judge should be humble. I will strive for that virtue. I know that everything I have is a gift and I can never forget that.

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)*

Yes. T.C.A. 40-11-115(b) provides that courts are to consider, in setting bail, "The nature of the

offense and the *apparent probability of conviction* and the likely sentence, insofar as these factors are relevant to the risk of nonappearance....” (Emphasis mine.) While I don’t disagree that probability of conviction could be a factor relevant in setting bail, the Court should tread carefully not to read that phrase to conflict with the presumption of innocence clothing every criminal defendant prior to verdict. The setting of bail in a criminal case is an extremely important phase of the process due every criminal defendant. Often, the prosecution will argue that the nature of the offense and *likelihood of conviction* (which the statute seems to require of the prosecutor something more than the mere fact that the defendant has been indicted) support a high bond. On the one hand the Court should be seen to respect the presumption of innocence of the accused while attempting to measure the “apparent probability of conviction” and its impact on the likelihood of non-appearance. It might be important too that defense counsel, at this early stage, will not have had time enough to begin preparing a defense and will be at a disadvantage. I think the best solution to the problem is to look to the weight of other factors in the case, i.e. nature of the offense, ties to the community, prior record, etc., to gauge the defendant’s risk of flight and be willing to take up the matter again should either party wish to be heard.

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. Fr. Charles (Chuck) Filiatreau, Rector, All Saints Anglican Church, 212 McClellan Rd., Jackson, TN 38305. Telephone: (731) 660-2770.

B. George M. Googe, Esq., Public Defender for the 26TH Judicial District, 245 West Sycamore St., Jackson, TN 38301. Telephone: (731) 423-6657.

C. Cathy Clayton, Esq., Attorney with Spragins, Barnett & Cobb, 312 East Lafayette, Jackson, TN 38301. Telephone: (731) 424-0461.

D. Dr. Richard England, Professor of Music, Freed-Hardeman University, 158 E. Main St., Henderson, TN 38340. Telephone: (731) 989-6669; (731) 217-3580.

E. Jeffrey A. Garrety, 65 Stonebridge Blvd., Jackson, TNH 38305. Telephone: (800) 668-4878.

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 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: January 16, 2012.

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 COURT OF JUDICIARY
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 Court of 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.

Lloyd R. Tatum

s/Lloyd R. Tatum
Signature

January 16, 2012
BPR # 011326

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

N/A
