

APPLICATION FOR NOMINATION TO THE 18th CIRCUIT COURT

(Please attach additional pages as needed to respond fully to questions.)

DATE: September 10, 2018 Florida Bar No.: 0048471

redacted per
instructions on
page 19 of this
application

GENERAL:

Social Security No.: _____

1. Name Michael W. Dwyer E-mail: mdwyer@pd18.net

Date Admitted to Practice in Florida: 1995

Date Admitted to Practice in other States: n/a

2. State current employer and title, including professional position and any public or judicial office.

Office of the Public Defender 18th Circuit as an assistant public defender

3. Business address: 2725 Judge Fran Jamieson Way, Building E

City Viera County Brevard State FL ZIP 32940

Telephone (321) 617-7373 FAX (321) 617-7353

4. Residential address: ~~110 Delmar Street~~

City ~~Melbourne Beach~~ County ~~Brevard~~ State ~~FL~~ ZIP ~~32951~~

Since 2000 Telephone _____

5. Place of birth: Miami, Florida

Date of birth: 07/30/1962 Age: 56 years

6a. Length of residence in State of Florida: 56 years

6b. Are you a registered voter? Yes No

If so, in what county are you registered? Brevard

7. Marital status: Married

If married: Spouse's name _____

Date of marriage _____

Spouse's occupation _____

If ever divorced give for each marriage name(s) of spouse(s), current address for each former spouse, date and place of divorce, court and case number for each divorce.

n/a

8. Children

<i>Name(s)</i>	<i>Age(s)</i>	<i>Occupation(s)</i>	<i>Residential address(es)</i>
		n/a	
		n/a	

9. Military Service (including Reserves)

<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>
n/a	n/a	n/a	n/a
Rank at time of discharge	<u>n/a</u>	Type of discharge	<u>n/a</u>
Awards or citations	<u>n/a</u>		

HEALTH:

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EDUCATION:

18a. Secondary schools, colleges and law schools attended.

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
University of Florida	graduated	1980-85	BS Chemistry
St Thomas University	graduated	1991-1994	JD

18b. List and describe academic scholarships earned, honor societies or other awards.

Freshman Honor scholarship UF 1980, American Chemical Society

NON-LEGAL EMPLOYMENT:

19. List all previous full-time non-legal jobs or positions held since 21 in chronological order and briefly describe them.

<i>Date</i>	<i>Position</i>	<i>Employer</i>	<i>Address</i>
1985-1991	Research Scientist	Key Pharmaceutical later acquired by Schering-Plough	2000 Galloping Hill Road, Kenilworth, NJ
1995-2000	Attorney	Dwyer & Dwyer	5965 SW 8 th Street,

			Miami, FI
2000-2002	Attorney	High, Stack, Palahack & Cruanes	725 East Strawbridge Ave, Melbourne, FI
2002- present	Attorney	Office of the Public Defender 18 th Circuit	2725 Judge Fran Jamieson Way, Viera, FI

PROFESSIONAL ADMISSIONS:

20. List all courts (including state bar admissions) and administrative bodies having special admission requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have been suspended or resigned.

<i>Court or Administrative Body</i>	<i>Date of Admission</i>
Florida Bar	05/05/1995

LAW PRACTICE: (If you are a sitting judge, answer questions 21 through 26 with reference to the years before you became a judge.)

21. State the names, dates and addresses for all firms with which you have been associated in practice, governmental agencies or private business organizations by which you have been employed, periods you have practiced as a sole practitioner, law clerkships and other prior employment:

<i>Position</i>	<i>Name of Firm</i>	<i>Address</i>	<i>Dates</i>
Attorney	Dwyer & Dwyer	5965 SW 8 th Street, Miami, FI	1995-2000
Attorney	High, Stack, Palahach & Cruanes	725 East Strawbridge Avenue, Melbourne, FI	2000-2002
Attorney	Office of the Public Defender	2725 Judge Fran Jamieson Way, Viera, FI	2002-present

22. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

Criminal defense is the general nature of my current practice. While at High,Stack I was practicing personal injury on behalf of plaintiffs. While at Dwyer & Dwyer, my father and I practiced a variety of legal areas including criminal defense, dependency, real estate closings and probate/estate planning.

23. What percentage of your appearance in courts in the last five years or last five years of practice (include the dates) was in:

Court		Area of Practice	
Federal Appellate	<u>0</u> %	Civil	<u>0</u> %
Federal Trial	<u>0</u> %	Criminal	<u>100</u> %
Federal Other	<u>0</u> %	Family	<u>0</u> %
State Appellate	<u>0</u> %	Probate	<u>0</u> %
State Trial	<u>100</u> %	Other	<u>0</u> %
State Administrative	<u>0</u> %		
State Other	<u>0</u> %		
	<u> </u> %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

24. In your lifetime, how many (number) of the cases you have tried to verdict or judgment were:

Jury? 69 Non-jury? 1
 Arbitration? 0 Administrative Bodies? 0

25. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

no

26. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain in full.

no

(Questions 27 through 30 are optional for sitting judges who have served 5 years or more.)

27a. For your last 6 cases, which were tried to verdict before a jury or arbitration panel or tried to judgment before a judge, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

1. State v. Charles Blanding 05 2014 CF 053622 A
Asst. State Attorney Aaron Peacock - (321) 617-7510
2. State v. Stacey Ann Brown 05 2015 CF 030671 A
Asst. State Attorney Guna Ose - (321) 617-7510
3. State v. Oakley Brooks 05 2014 CF 026562 A

Asst. State Attorney Russell Bausch - (321) 617-7510

4. State v. Angelo Bizzarro 05 2016 CF 13264 A

(former) Asst. State Attorney Jonathan Templeton - (321) 261-5517

5. State v. Jeremy Bonesteel 05 2017 CF 044558 A

(former) Asst. State Attorney Travis Jones - (321) 617-7510

6. State v. Augusta Brooks 05 2017 CF 030950 A

(former) Asst. State Attorney Travis Jones - (321) 617-7510

27b. For your last 6 cases, which were settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases).

1. State v. Ryan Burton 05 2018 CF 018012 A

Asst. State Attorney Aaron Peacock - (321) 617-7510

2. State v. Edith Brantley 05 2018 CF 24322 A

Asst. State Attorney Michael Lynch - (321) 617-7510

3. State v. David Burner 05 2016 CF 041096 A, 05 2016 CF 0413275 A, 05 2017 CF 50756 A, 05 2017 CF 051106 A

Asst. State Attorney Aaron Peacock - (321) 617-7510

4. State v. Michael Burton 05 2017 CF 037365 A

Asst. State Attorney Aaron Peacock - (321) 617-7510

5. State v. Amanda Bradley 05 2018 CF 015112 A

Asst. State Attorney Michael Lynch - (321) 617-7510

6. State v. Augusta Brooks 05 2018 CF 018055 A

Asst. State Attorney Michael Lynch - (321) 617-7510

27c. During the last five years, how frequently have you appeared at administrative hearings?
n/a average times per month

27d. During the last five years, how frequently have you appeared in Court?
20 average times per month

27e. During the last five years, if your practice was substantially personal injury, what percentage of your work was in representation of plaintiffs? n/a% Defendants?
n/a%

28. If during any prior period you have appeared in court with greater frequency than during the last five years, indicate the period during which this was so and give for such prior periods a succinct statement of the part you played in the litigation, numbers of cases and whether jury or non-jury.

n/a

29. For the cases you have tried to award in arbitration, during each of the past five years, indicate whether you were sole, associate or chief counsel. Give citations of any reported cases.

n/a

30. List and describe the six most significant cases which you personally litigated giving case style, number and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant. Give the name of the court and judge, the date tried and names of other attorneys involved.

1. State v. Oakley Brooks 05 2014 CF 026562 A, the 5th DCA per curium affirmed the conviction at trial in 5D17-797. The trial was before Judge Charles Holcomb in the 18th Circuit Court between January 23 - January 27, 2017 and the Asst. State Attorney of record was Russell Bausch.

2. State v. Brittany Nicole Messineo 05 2013 CF 057281 A, 5D15-80 and 174 So.3d 1106 (10/18/15) where the 5th DCA reversed conviction for violation of probation. The violation of probation hearing was heard before Judge James Earp on December 16, 2014 in the 18th Circuit Court and the Asst. State Attorney of record was Kaylee Taylor.

3. State v. Ricardo Hermon Glasco 05 2012 CF 021349 A, the State of Florida appealed Judge Harris' decision to suppress cell phone evidence and the 5th DCA reversed Judge Harris in 5D11-851 on July 10, 2012, then the Supreme Court of Florida reversed the 5th DCA and affirmed Judge John Harris' original order suppressing the cell phone evidence as an improper warrantless search and seizure in SC12-1292 (04/24/2014).

4. State v. Steven Lee Morris 05 2007 CF 051975 A, upon appeal the 5th DCA reversed Judge Allawas' overrule of objection by defense as to improper burden shifting closing argument made by the State of Florida at trial in 5D07-3069 and 988 So.2d 120 (07/25/08). The trial was held before Judge Meryl Allawas between July 24 - July 26, 2007 and the Asst. State Attorney of record was Brian Holeman.

5. State v. Lamont Lavel Brookens 05 2005 CF 059153 A, upon appeal the 5th DCA reversed the sentencing of Defendant as a prison release reoffender (PRR) for the Battery upon a Law Enforcement Officer count and reversed his mandatory 5 year sentence, day for day in 5D06-1496 (08/24/2007). The trial was held before Judge Tonya Rainwater between February 28 - March 1, 2006 and the Asst. State Attorney of record was James McMaster.

6. State v. Matha Brownlee IV 05 2001 CF 034200 A, and there was no reported decisions in this case because it was an acquittal at trial on bifurcated count 11 Sale of Cocaine which eventually led to a 5 year probation offer from the State of Florida for the

remaining 15 counts of sale of cocaine. The trial on count 11 was held before Judge J. Preston Silvernail in the 18th Circuit Court between April 18 - April 20, 2005 and the Asst. State Attorney of record was Jason McVicker.

31. Attach at least one example of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach writing for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

See attached. I was substantially responsible for the entire submission and only had minor assistance in research from an intern.

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE:

- 32a. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved and the dates of service or dates of candidacy.

Yes, I was a candidate for two (2) County Court appointments in 2016 before the JNC and was invited to interview with Governor Rick Scott's General Counsel in Tallahassee, Florida at the Capitol Building.

- 32b. List any prior quasi-judicial service:

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
n/a		

Types of issues heard:

- 32c. Have you ever held or been a candidate for any other public office? If so, state the office, location and dates of service or candidacy.

no

- 32d. If you have had prior judicial or quasi-judicial experience,

(i) List the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance.

n/a

(ii) Describe the approximate number and nature of the cases you have handled during your judicial or quasi-judicial tenure.

n/a

(iii) List citations of any opinions which have been published.

n/a

(iv) List citations or styles and describe the five most significant cases you have tried or heard. Identify the parties, describe the cases and tell why you believe them to

be significant. Give dates tried and names of attorneys involved.

n/a

- (v) Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give date, describe complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

n/a

- (vi) Have you ever held an attorney in contempt? If so, for each instance state name of attorney, approximate date and circumstances.

n/a

- (vii) If you are a quasi-judicial officer (ALJ, Magistrate, General Master), have you ever been disciplined or reprimanded by a sitting judge? If so, describe.

n/a

BUSINESS INVOLVEMENT:

- 33a. If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

n/a

- 33b. Since being admitted to the Bar, have you ever been engaged in any occupation, business or profession other than the practice of law? If so, give details, including dates.

no

- 33c. State whether during the past five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization, or association of any kind. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved and the dates such compensation was paid and the amounts.

no

POSSIBLE BIAS OR PREJUDICE:

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you as a general proposition believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

no

MISCELLANEOUS:

- 35a. Have you ever been convicted of a felony or a first degree misdemeanor?
Yes _____ No X If "Yes" what charges? n/a
Where convicted? n/a Date of Conviction: n/a
- 35b. Have you pled nolo contendere or pled guilty to a crime which is a felony or a first degree misdemeanor?
Yes _____ No X If "Yes" what charges? n/a
Where convicted? n/a Date of Conviction: n/a
- 35c. Have you ever had the adjudication of guilt withheld for a crime which is a felony or a first degree misdemeanor?
Yes _____ No X If "Yes" what charges? n/a
Where convicted? n/a Date of Conviction: n/a
- 36a. Have you ever been sued by a client? If so, give particulars including name of client, date suit filed, court, case number and disposition.
no
- 36b. Has any lawsuit to your knowledge been filed alleging malpractice as a result of action or inaction on your part?
no
- 36c. Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the amounts involved.
no
- 37a. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you?
no
- 37b. Have you ever owned more than 25% of the issued and outstanding shares or acted as an officer or director of any corporation by which or against which a petition in bankruptcy has been filed? If so, give name of corporation, your relationship to it and date and caption of petition.
no
38. Have you ever been a party to a lawsuit either as a plaintiff or as a defendant? If so, please supply the jurisdiction/county in which the lawsuit was filed, style, case number, nature of the lawsuit, whether you were Plaintiff or Defendant and its disposition.
no

39. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, give the particulars.

no

40. To your knowledge within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers or clients ever filed a formal complaint or formal accusation of misconduct against you with any regulatory or investigatory agency, or with your employer? If so, please state the date(s) of such formal complaint or formal accusation(s), the specific formal complaint or formal accusation(s) made, and the background and resolution of such action(s). (Any complaint filed with JQC, refer to 32d(v).

Yes, Florida Bar complaints by former clients are: 01/26/2015 by Mr. Michael Anthony Hutsell (result dismissed by FI Bar, and filed closed), 05/21/2013 by Mr. Donald T. Wingard (result dismissed by FI Bar, file closed), 04/23/2010 by Mr. Keith McMurray (result dismissed by FI Bar, file closed), 02/29/2016 by Wayne Meredith (result dismissed by FI Bar on April 1, 2016, 03/23/2016 letter from Victor Brown (result deemed unactionable by the FI Bar on April 5, 2016, so no formal complaint was ever addressed) and I believe there are three (3) more Florida Bar Complaints by former clients which I do not have accesible records for, which the Florida Bar may have evidence of, but no Bar complaints have ever been found actionable and all Bar complaints have been timely responded to by myself and subsequently dismiss with no further action. There are no current bar complaints to my knowledge.

41. Are you currently the subject of an investigation which could result in civil, administrative or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation and the expected completion date of the investigation.

no

42. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

no

43a. Have you filed all past tax returns as required by federal, state, local and other government authorities?

Yes No If no, please explain. n/a

43b. Have you ever paid a tax penalty?

Yes No If yes, please explain what and why. n/a

43c. Has a tax lien ever been filed against you? If so, by whom, when, where and why?

no

HONORS AND PUBLICATIONS:

44. If you have published any books or articles, list them, giving citations and dates.
no
45. List any honors, prizes or awards you have received. Give dates.
no
46. List and describe any speeches or lectures you have given.
none
47. Do you have a Martindale-Hubbell rating? Yes If so, what is it? ___ No
n/a

PROFESSIONAL AND OTHER ACTIVITIES:

- 48a. List all bar associations and professional societies of which you are a member and give the titles and dates of any office which you may have held in such groups and committees to which you belonged.
none
- 48b. List, in a fully identifiable fashion, all organizations, other than those identified in response to question No. 48(a), of which you have been a member since graduating from law school, including the titles and dates of any offices which you have held in each such organization.
none
- 48c. List your hobbies or other vocational interests.
Little league baseball coaching, youth soccer affecianado, boating, fishing, swimming, diving, camping, hiking, raising my children and being a loving, caring husband for Gaby, reading, biking, auto and marine mechanics, woodworking, a little noodling on the Uke and the Stratocaster.
- 48d. Do you now or have you ever belonged to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.
no
- 48e. Describe any pro bono legal work you have done. Give dates.
none in the past 14 years while at the Public Defenders Office, although the non-legal life counseling along with the legal representation is present at all stages when a client is receptive.

SUPPLEMENTAL INFORMATION:

- 49a. Have you attended any continuing legal education programs during the past five years? If so, in what substantive areas?

yes, criminal law, ethics and legal technology

49b. Have you taught any courses on law or lectured at bar association conferences, law school forums, or continuing legal education programs? If so, in what substantive areas?
no

50. Describe any additional education or other experience you have which could assist you in holding judicial office.

I am formally trained as an analytical scientist from my graduate work at the University of Florida. My undergraduate work as a chemist and subsequent employment as a scientist, research scientist, raw materials analyst, quality control chemist and quality assurance chemist has assisted my legal practice in the past and present, which I am sure would assist in holding a judicial office. My research abilities were fostered and enhanced as a research scientist and I have used and furthered that training in my subsequent and current legal career. I also have journeyman experience as a farmer, lifeguard, and mechanic which lends a more than cursory knowledge of those areas. As a Florida resident for fifty six (56) years I have extensive, well traveled general and specific knowledge of Florida and its varied locals. Between my career in pharmaceutical chemical research and matriculation into law school, I traveled the United States for four (4) months with two other fellow scientists and visited many unique and special locations, state and national parks and recreation areas camping along the way and traveling in my 1988 F-150. Both of my parents were career law enforcement officers employed by the Dade County Police Department for thirty four (34) and twenty six (26) years as ranking officers of which some of their knowledge of that area was imparted and imputed to my knowledge over my earlier years growing up. Did I mention I have rebuilt transmissions and engines for Ford trucks, 1964 Mustangs, 1976 and 1980 MGB roadster, Dodge Challenger, Plymouth Road Runner, Dodge Charger, Ford Escort to name just a few. I have built 12 custom fishing rods and use them as an avid fisherman. Early on in my life I built home stereo speakers from rosewood and mahogany using components from Radio Shack which I used for the better part of 20 years through high school, college and law school. My wife and I have bareboated sailboats out of the Abacos and Belize several times for 7 -10 days each trip. I assist coaching baseball for South Beaches Little League and actively participate as a parental support for Tsunami, BSA and Indiatlantic youth soccer organizations. I mention this because other families in the community I/we associate with, open my exposure to school teachers, medical professionals, firefighter/EMT's, real estate businesses, multinational corporations, aviators and aviation business owners, legal professionals, former professional wrestlers, artists, musicians and stay at home parents.

51. Explain the particular potential contribution you believe your selection would bring to this position.

I believe my extensive service as a public servant, and my families contributions to public service speaks volumes. Growing up, I mentioned above, I was raised in a household in which law enforcement was paramount and highly respected. Having that previous and continuing respect for law enforcement and my nearly exclusive defense legal advocacy would potentially contribute to the balance I would bring to the position. My prior lack of legal involvement as a citizen, does not lend to any personal biases that may be attributed to such personal or private involvement. I have spent every day of my

life learning and living justice, learning and living the difference between right and wrong, and with two young children and a caring, loving spouse, I continue to learn new things on a daily basis. I will bring an open and unbiased mind to this potential position as circuit judge.

52. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name of the commission and the approximate date of submission.

Two (2) prior applications for appointment for County Court appointments to this 18th Circuit JNC in 2016 for the Judge John Murphy and Judge Kathleen Clarke vacancies.

53. Give any other information you feel would be helpful to the Commission in evaluating your application.

I have so much more that 56 years of experience cannot be timely listed on this application, just interview me and I will expound on your inquiries.

REFERENCES:

54. List the names, addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for judicial position and of whom inquiry may be made by the Commission

John Kohler,
Charles Crawford,
James McMaster,
Morgan Reinman,
Michael Pirolo,
Kaylee Taylor,
John Harris,
Margaret Wagner,
David Dugan,
Michael Oesterle,

CERTIFICATE

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 10th day of September, 2018.

MICHAEL W. DWYER

Printed Name


Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.