

REDACTED

**APPLICATION FOR NOMINATION TO THE  
CIRCUIT COURT**

**Mitchel Novas**

**APPLICATION FOR NOMINATION TO THE CIRCUIT COURT**

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

**DATE:** July 30, 2018 Florida Bar No.: 0754810

**GENERAL:** Social Security No.: \_\_\_\_\_

1. Name Mitchel Novas E-mail: mitchelnovas@gmail.com

Date Admitted to Practice in Florida: June 15, 1988

Date Admitted to Practice in other States: \_\_\_\_\_

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

State of Florida, Assistant Public Defender, Felony Division

3. Business address: 251 N. Ridgewood Avenue

City Daytona Beach County Volusi State Florida ZIP 32114

Telephone ( ) - FAX (386) 239-7731

4. Residential address: \_\_\_\_\_

City \_\_\_\_\_ County Volusi State Florida ZIP 32176

Since 1988 Telephone ( ) -

5. Place of birth: Havana, Cuba

Date of birth: September 1, 1962 Age: 55

6a. Length of residence in State of Florida: 46 years

6b. Are you a registered voter?  Yes  No

If so, in what county are you registered? Volusia

7. Marital status: Married

If married: Spouse's name \_\_\_\_\_

Date of marriage December 19, 1998

Spouse's occupation Attorney

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.

8. Children

<i>Name(s)</i>	<i>Age(s)</i>	<i>Occupation(s)</i>	<i>Residential address(es)</i>
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9. Military Service (including Reserves)

<i>Service</i>	<i>Branch</i>	<i>Highest Rank</i>	<i>Dates</i>
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Rank at time of discharge \_\_\_\_\_ Type of discharge \_\_\_\_\_

Awards or citations \_\_\_\_\_

**HEALTH:**

10. Are you currently addicted to or dependent upon the use of narcotics, drugs, or intoxicating beverages? If yes, state the details, including the date(s).

No

11a. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism?

Yes  No

If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.]

Please describe such treatment or diagnosis.

11b. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner?

- Experiencing periods of no sleep for 2 or 3 nights
- Experiencing periods of hyperactivity
- Spending money profusely with extremely poor judgment
- Suffered from extreme loss of appetite

- Suffered from extreme loss of appetite
- Issuing checks without sufficient funds
- Defaulting on a loan
- Experiencing frequent mood swings
- Uncontrollable tiredness
- Falling asleep without warning in the middle of an activity

Yes  No

If yes, please explain.

No

12a. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner?

Yes  No

12b. If your answer to the question above is Yes, are the limitations or impairments caused by your physical or mental health impairment reduced or ameliorated because you receive ongoing treatment (with or without medication) or participate in a monitoring or counseling program?

Yes  No

Describe such problem and any treatment or program of monitoring or counseling.

13. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, give full details as to court, date and circumstances.

No

14. During the last ten years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal law provisions.)

No

15. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs or illegal use of drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No

16. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.

No

17. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No

**EDUCATION:**

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

<i>Schools</i>	<i>Class Standing</i>	<i>Dates of Attendance</i>	<i>Degree</i>
Mississippi College School of Law		Aug 1984- Dec 1987	J.D.
Florida State University		Aug 1981- April 1983	B.S.
Miami Dade South Community College		Aug 1979- May 1981	A.A
University of Central Florida		Jan 1996- May 1996	

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

Dean's List, Phi Delta Phi Legal Fraternity

**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>
Sept 1984-	Bank Teller	Deposit Guarantee	202 West Pearl Street,

Dec 1987		National Bank	Jackson, Mississippi
2000-2001	Adjunct Professor	Daytona State Col	Daytona Beach, FL

**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	June 15, 1988
District of Columbia Bar	December 1, 1989
Supreme Court of the United States of America	August 16, 1991
United States Court of Appeals, Eleventh Circuit	April 25, 1989
United States District Court, Middle District	May 15, 1989
United States Tax Court	April 28, 1989

**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>
Assistant Public Defender	Public Defender's Office, 7th Circuit	251 N. Ridgewood Ave, Daytona Beach, FL	August 1988 to present
Sole Practice	Law Office of Mitchel Novas	630 N. Wild Olive, Daytona Beach, FL	1995- 1996

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.

I am a Board Certified Criminal Trial Attorney. I represent clients accused of committing felonies who are indigent and in need of legal services. My prior practice in addition to criminal law was as a sole practitioner handling civil cases. I handled family law cases,

personal injury cases, real estate, probate, contracts and just about anything that was referred to me by other attorneys.

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	_____ %	Civil	_____ %
Federal Trial	_____ %	Criminal	<u>100</u> %
Federal Other	_____ %	Family	_____ %
State Appellate	_____ %	Probate	_____ %
State Trial	<u>100</u> %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
	_____ %		
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? 95 Non-jury? 9  
 Arbitration? \_\_\_\_\_ Administrative Bodies? \_\_\_\_\_

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. KAWALEC, Case No. 2016-301446 CFDB; Opposing Counsel: Michael Stover, phone (386) 313-4300; Judge Bryan Feigenbaum, phone (386) 257-6074

Date Tried: August 28, 2017

2. STATE v. SLATER, Case No. 2016-302381 CFDB; Opposing Counsel: Derek Candela, phone (386) 239-7710; Judge Leah Case, phone (386) 239-7790

Date Tried: August 15, 2017

3. STATE v. MURPHY, Case No. 2017-300570 CFDB, Opposing Counsel: Michael Stover, phone (386) 239-7710; Judge Leah Case, phone (386) 239-7790

Date Tried: April 25, 2017.

4. STATE v. HALL, Case No. 2014-302932 CFDB, Opposing Counsel: John Reid, phone (386) 239-7710, Judge Leah Case, phone (386) 239-7790

Date Tried: January 16, 2016

5. STATE v. POWELL, Case No. 2014-305702 CFDB; Opposing Counsel: Derek Candela, phone (386) 239-7710; Judge Leah Case, phone (386) 239-7790

Date Tried: December 9, 2015

6. STATE v. DOBROWOLSKI, Case No. 2014-306276 CFDB

Opposing Counsel: Michael Willard, phone (386) 239-7710

Judge Case, phone (386) 239-7790

Date Tried: July 21, 2015

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. DEMICHELE, Case No. 2015-303934 CFDB

Counsel: Sarah Thomas, phone (386) 239-7710

2. STATE v. OLEA, Case No. 2018-302940 CFDB

Counsel: Derek Candela, phone (386) 239-7710

3. STATE v. FREEMAN, Case No. 2018-302907 CFDB

Counsel: DARAH THOMAS, phone (386) 239-7710

4. STATE v. BARTON, Case No. 2018-302680 CFDB

Counsel: Derek Candela, phone (386) 239-7710

5. STATE v. GREEN, Case No. 2018-302782 CFDB

Counsel: Derek Candela, phone (386) 239-7710

6. STATE v. GRIFFIN, Case No. 2017-306008 CFDB

Counsel: Michael Willard, phone (386) 239-7710

27c. During the last five years, how frequently have you appeared at administrative hearings?



0 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? \_\_\_\_\_%  
Defendants? \_\_\_\_\_%

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.

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.

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.

See Attached

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

**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.

No

32b. List any prior quasi-judicial service:

<i>Dates</i>	<i>Name of Agency</i>	<i>Position Held</i>
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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.

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

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

(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.

(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.

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

(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.

#### **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.

No

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.

As of 1999, my wife and I have some rental houses. We currently have three.

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.

None

**MISCELLANEOUS:**

35a. Have you ever been convicted of a felony or a first degree misdemeanor?

Yes \_\_\_\_\_ No X \_\_\_\_\_ If "Yes" what charges? \_\_\_\_\_

Where convicted? \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

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? \_\_\_\_\_

Where convicted? \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

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? \_\_\_\_\_

Where convicted? \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

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).

No

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. \_\_\_\_\_

43b. Have you ever paid a tax penalty?

Yes  No  If yes, please explain what and why. \_\_\_\_\_

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.

45. List any honors, prizes or awards you have received. Give dates.

Judge Joseph G. Will Teen Court Founders Award For Dedicated Service 2003

Volusia County Teen Court Distinguished Service Award 2004

Volusia County Teen Court Distinguished Service Award 2005

Volusia County Teen Court Distinguished Service Award 2006

Several Service Awards from the Volusia County Hispanic Association

46. List and describe any speeches or lectures you have given.

I have given several speeches at Pine Ridge High School

47. Do you have a Martindale-Hubbell rating? Yes  If so, what is it? \_\_\_ No

**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.

Dunn-Blount Inn of Court

Member of the Volusia County Hispanic Association, Board Member 2005- 2006

Member of the Republican Executive Committee of Volusia County since 2003

Vestry Member at St. James Episcopal Church in Ormond Beach 2012 to 2015

Team Leader of ATOM (A Team Of Ministers) at St. James Episcopal Church in Ormond Beach 2012 to present

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.

48c. List your hobbies or other vocational interests.

I enjoy being a member and usher at St. James Episcopal Church in Ormond Beach and the team leader of ATOM (A Team Of Ministers). I also enjoy doing home improvement projects and helping out with projects in the community. I am a volunteer at the Emory L. Bennett Veterans Nursing Home.

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.

Teen Court Program Volunteer 2003- 2006

**SUPPLEMENTAL INFORMATION:**

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

Yes, in criminal law.

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?

I have taught Business Law courses at Daytona State College.

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

I am a Board Certified Criminal Trial attorney. I have tried death penalty cases. I have also volunteered in the Teen Court Program where I gained valuable experience serving in the role of a judge. Teen Court required me to maintain control of a courtroom full of juveniles charged with criminal offenses. I am involved in several projects in my community volunteering my time for very worthy causes.

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

Having tried one hundred and four criminal cases to conclusion, I have valuable trial experience and am well versed in dealing with juries. I bring experience in the civil arena. My private practice was exclusively civil cases wherein I practiced most areas of the law. I bring varied life experiences to the Bench. I have seen firsthand how drugs and mental health issues affect families and I have dealt considerably with families of victims and clients. Being of Hispanic background and speaking a second language fluently, I bring diversity to the Court. As an immigrant, I have instilled in me a strong work ethic and a great love of the opportunities this country provides. I worked as a bank teller full time and attended law school at night because of limited financial means. I am an example to our youth that anything can be achieved if you work hard for it.

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.

Seventh Judicial Circuit Nominating Commission in 2003, 2007, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017..

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

I have been a practicing attorney for thirty years achieving Board Certification in Criminal Trial. Although I have been with the Public Defender's Office for many years, during this time I was able to gain experience in civil matters when I was in private practice. I bring knowledge of the law in civil and criminal matters and a wealth of experience in the courtroom. I have the ability to look at a case objectively and I have the demeanor needed of a Judge in the courtroom. I have practiced before most of the Judges in the Seventh Circuit. Most of them know me by first name and I have included some of them in my list of references. They can attest to my character and professionalism in and out of the courtroom. Some of the Judges were prosecutors in my cases before they became Judge. These Judges and the prosecutors I have tried cases before can best describe my demeanor in court, my work ethic and my knowledge of the law. I also volunteer my time throughout the community. I am an usher and leader of the A Tream of Ministers at St. James Episcopal Church in Ormond Beach.

**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.

Tony Ledbetter, Chaiman of the Republican Executive Committee, P.O. Box 9096, Daytona Beach, FL 386-235-7755

Judge Dennis Craig- 1769 E. Moody Blvd., Bunnell, FL 386-313-4510

Judge Raul Zambrano- 101 N. Alabama Ave, Deland, FL 386-943-7060

Judge Bryan A. Feigenbaum- 125 E. Orange Ave., Daytona Beach, FL 386-257-6074

Judge Howard O. McGillin- 4010 Lewis Speedway, St. Augustine, FL 904-827-5647

Judge Leah Case- 251 N. Ridgewood Ave., Daytona BEACH, fl 386-239-7790

Assistant State Attorney Derek Candela- 251 N. Ridgewood Ave., Daytona Beach, FL 386-239-7710

Assistant State Attorney Michael Stover- 251 N. Ridgewood Ave., Daytona Beach, FL 386-313-4300

Craig Dyer- 251 N. Ridgewood Ave., Daytona Beach, FL 386-239-7730

Honorable James Purdy - 251 N. Ridgewood Ave., Daytona Beach, FL 386-239-7730

**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(I), 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 30th day of July, 2018.



\_\_\_\_\_  
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.*



## FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current year to date	\$50,166.69		
List Last 3 years	\$81,166.65	\$79,077.21	\$78,461.88

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Current year to date	\$50,166.69		
List Last 3 years	\$81,166.65	\$79,077.21	\$78,461.88

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current year to date	\$21,875.00	Rent	
List Last 3 years	\$27,825.00	\$32,400.00	\$30,300.00

4. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

Current year to date	\$21,875.00		
List Last 3 years	(\$10,233.00)	(\$3,065.00)	(\$1,263.00)

**FORM 6  
FULL AND PUBLIC  
DISCLOSURE OF  
FINANCIAL INTEREST**

**PART A – NET WORTH**

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of July, 2018 was \$807,500.

**PART B - ASSETS**

**HOUSEHOLD GOODS AND PERSONAL EFFECTS:**

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ 40,000

**ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:**

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
Real Property- 331 Williams Avenue, Daytona Beach, FL	\$95,000
Real Property- 223 Rockefeller Dr, Ormond Beach, FL	\$150,000
Real Property- 75 Country Club Dr, Ormond Beach, FL	\$250,000
Financial Educators Federal Credit Union	\$17,500
Suntrust Bank	\$30,000
T. Rowe Price Deferred Comp	\$225,000

**PART C - LIABILITIES**

**LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):**

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

**JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:**

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

**PART D - INCOME**

You may ***EITHER*** (1) file a complete copy of your latest federal income tax return, *including all W2's, schedules, and attachments*, ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.  
 (if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

**PRIMARY SOURCE OF INCOME (See instructions on page 5):**

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
State of Florida	251 N. Ridgewood Ave, Daytona Beach, FL	\$50,166
William Blake (renter)	331 Williams Ave, Daytona Beach, FL	\$1,700
Justin Boren, Sandra Haggerty	223 Rockefeller Dr, Ormond Beach, FL	\$5,425

**SECONDARY SOURCES OF INCOME** [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSIENSS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

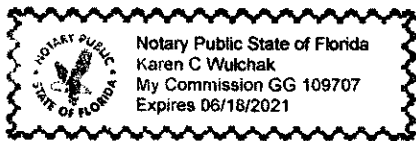
**PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]**

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

**IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE**

**OATH**

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.



*Mitchel Novas*

**SIGNATURE**

**STATE OF FLORIDA**

**COUNTY OF** Volusia

Sworn to (or affirmed) and subscribed before me this 30<sup>th</sup> day of July, 2018 by Mitchel Novas

*Karen C. Wulchak*

(Signature of Notary Public—State of Florida)

KAREN C. WULCHAK

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

**JUDICIAL APPLICATION DATA RECORD**

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: July 30<sup>th</sup>, 2018

JNC Submitting To: Seventh Circuit

Name (please print): Mitchel Novas

Current Occupation: Attorney

Telephone Number: (386) 871-4439 Attorney No.: 0754810

Gender (check one):  Male  Female

Ethnic Origin (check one):  White, non Hispanic

Hispanic

Black

American Indian/Alaskan Native

Asian/Pacific Islander

County of Residence: Volusia

*FLORIDA DEPARTMENT OF LAW ENFORCEMENT*

**DISCLOSURE PURSUANT TO THE  
FAIR CREDIT REPORTING ACT (FCRA)**

The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.


**CONSUMER'S AUTHORIZATION FOR FDLE  
TO OBTAIN CONSUMER REPORT(S)**

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Printed Name of  
Applicant:

Mitchel Novas

Signature of Applicant:



Date: July 30<sup>th</sup>, 2018

## **SIX MOST SIGNIFICANT CASES**

1. State v. Baumann, Case No. CF01-2563. This was a death penalty case wherein David Baumann had confessed to going on a crime spree with his co-defendant through several states and murdering two people. Mr. Baumann was a teenager at the time. He was accused of being a principal to a third homicide in St. Augustine. The State Attorney was Maureen Christine and my co-counsel was Val Quetti. I inherited the case as lead counsel months prior to the start of the trial. The co-defendant, who was proven to be the actual shooter in this case, was given a life sentence by the jury. As a result, Mr. Baumann was offered a life sentence by the state, which he accepted. The Judge who was to hear the case and who ultimately took the plea was Judge Foxman. What was most significant is that after the plea David Baumann agreed to meet with the victim's mother and talk to her about certain issues she had on her mind. This was the first time anyone in my office participated in this type of meeting. I have always empathized with the loss a victim feels over a loved one; however, this afforded me a different perspective of how victims feel toward my client.

2. State v. Snelgrove, Case No. 00-323 CFFA. I was co-counsel on this case representing Mr. Snelgrove on a double homicide of an elderly couple in Palm Coast. The case was before Judge Hammond. The prosecutors were John Tanner and Steve Nelson and they were seeking the death penalty on behalf of the State. After having been found guilty of two counts of First Degree Premeditated Murder and First Degree Felony Murder the case proceeded to the penalty phase. The defense presented to the jury the PET scan performed on the defendant, which was relatively new technology at the time for criminal cases. The scan showed the mental deficiencies suffered by Mr. Snelgrove. In what was otherwise a highly aggravated case the jury returned a 7-5 verdict for death. The significance of this case was the impact mental mitigation had on the jury's verdict. The client was given the death penalty. On appeal a new sentencing phase was ordered wherein Mr. Snelgrove was resentenced to death by a jury verdict of 8-4 for death.

3. State v. Vilella, Case No.99-01614 CFAWS. I represented Mark Vilella on a charge of First Degree Murder before Judge Briese. Representing the State was Assistant State Attorney Raul Zambrano and Assistant State Attorney Phil Bonamo. Mr. Vilella was a funeral director accused of murdering his wife and placing her body inside a coffin along with another body. The trial was taped and subsequently shown on Court TV. During trial I attempted to show that Mr. Vilella's wife was having an affair with another man in order to corroborate my client's statements to the police and to show that the homicide was in the heat of passion. The state attorney objected to my presenting said evidence as not relevant and the judge agreed. The jury subsequently convicted my client of First Degree Murder.

The case was appealed and is reported in Vilella v. State, 833 So.2d 192 (Fla. 5<sup>th</sup> DCA 2002). What is significant about the case is that the Fifth District Court of Appeals reversed the conviction and remanded the case for a new trial. The appellate court held that it was error to exclude corroborating evidence of the affair as it was vital to the defense that Mr. Vilella acted out of heat of passion.

4. State v. Dowgiallo, Case No. 2013-302121 CFDB. Ms. Dowgiallo was lawfully stopped for a traffic violation. Upon the officer looking into her vehicle, he saw a pill bottle with a valid prescription attached. The client stated it was her prescription. Without consent from the client nor reasonable suspicion that the pill bottle contained any unlawful narcotics, the officer opened the pill bottle discovering pills that were not prescribed. The issue was whether the officer had a right to open the pill bottle without consent. I argued that without reasonable suspicion, the client had a right to privacy and her containers could not be searched. Assistant State Attorney Dan Jancha opined that any officer could search a pill bottle with a valid prescription at any time just to see if there is anything illegal in it. As unlikely as it seems, this was a case of first impression because the state attorney and I did a nationwide search for analogous cases, and all I found was a minimally significant case. Judge Leah Case agreed with my argument that without probable cause or reasonable suspicion, a police officer cannot simply open pill bottles to determine the legality of the pills inside. The state attorney did not appeal the case.

5. State v. Coleman, Case No. 05-36162 CFAES. In this case Mr. Coleman was accused of three counts of grand theft - stealing a truck, stealing a trailer and stealing an antique car. What was significant on this case was that the antique vehicle was on the trailer that was attached to the truck. I filed a motion to dismiss two counts arguing that this was actually a theft of one item and not three different thefts. This appears to be a case of first impression, as neither myself nor the Assistant State Attorney, Dennis Craig, found any case on point. Judge Will agreed with my argument that the crime should be treated as one taking and granted the Motion to Dismiss two of the counts ruling that there was no separation between the items involved.

6. State v. Davis, Case No.10-30660 CFAES. Ms. Davis was arrested and charged with Fleeing and Eluding a Law Enforcement Officer. The charging officer alleged that after he pulled over Ms. Davis to issue her a citation, he approached the car and got a good look at her before she restarted her car and left him in the dust. Pursuant to police policy, the officer broke off the chase when the speed was excessive. I took the deposition of the police officer who stated that he was "one hundred percent positive" it was my client behind the wheel of the car after running a check of the license plate. His testimony would surely have convicted her at trial.

According to my client, she had stopped making payments on her car because of financial difficulties and assumed it had been towed and was not the driver of the vehicle. My investigation revealed that a month prior to this event, Ms. Davis had to leave the state of Florida and was living at an abuse shelter in Georgia and working at a Dollar General store at the time of the fleeing. I filed a notice of alibi and showed all the documentation to the state attorney along with all witnesses putting her in Georgia at the time. Even though a professional witness was sure my client was the one who committed a crime, we were able to show that it was a misidentification. If it were not for the services of the Public Defender's Office, this innocent young lady with no prior record would have surely been convicted of a crime she did not commit, making this one of many significant cases I handle daily.



## **WRITING SAMPLE**

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA

JUDGE J. DAVID WALSH

STATE OF FLORIDA,

CASE NO.: 2009-34040-CFAES

v.

ANTWAUNE LAMON BELL  
Defendant.

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**MEMORANDUM OF LAW IN OPPOSITION  
TO THE USE OF SIMILAR FACT EVIDENCE**

**FACTS**

The State has filed Notice of Intent to use Similar Fact Evidence pursuant to F.S. 90.404 (2)(a) and the law as set out in Williams v. State, 110 So.2d 654 (Fla. 1959). The allegation is that on July 26, 2009 the defendant entered a home by forcing open a window. The defendant then left the scene in a red car. The State intends to offer evidence that on October 19, 2008, approximately nine months earlier, the defendant entered a rear sliding glass door in a home in a different city and was seen leaving in a red Ford Explorer. To this charge the defendant pled no contest.

On January 19, 2010, this Court heard evidence concerning the State's Motion to Introduce Similar Fact Evidence. The hearing revealed that on October 19, 2008 the defendant left a house in Cypress Springs Parkway in Port Orange. It is undisputed that the defendant entered that house by breaking into a sliding glass door. He was then observed by Officer David Fouts of the Port Orange Police Department to leave that house in a red Ford Explorer. The State intends to introduce this evidence to attempt to show proof of motive, intent, identity or absence of mistake or accident.

At the hearing this Court heard from the victim of the July 26, 2009 burglary. She describes a black man inside her home who it was later determined had come in through a window. This particular burglar was fond of prying off window screens and attempting to gain entry through the window. All the windows in the home had been tampered with. The victim

stated that this man left in a red car. She admits she could not give a better description of the car because all cars look alike to her. Officer David Hedengren of the Daytona Beach Police Department was the first responder to the scene. He testified at the hearing that although the windows were tampered with, there was no sign of any forced entry through any doors. We can conclude that this burglar does not go in through doors. Unlike the burglar in the October 19, 2008 case who only does doors, this particular burglar only does windows. Officer Hedengren testified that the red Ford Explorer presented in a photo at the hearing was no different than any red Ford Explorer and that it could belong to anyone. He also testified that the defendant was not a suspect that came to his mind and that it could have been anyone.

### ARGUMENT

These are not sufficiently similar facts to allow the introduction of the prior crime. The case of Drake v. State, 400 So.2d 1217 (Fla. 1981) is on point. Drake was charged with murder of Ms. Reeder. It was alleged that he sexually assaulted and killed a woman. She was later found in a wooded area with her hands tied behind her back. The State sought to introduce evidence that on two prior occasions Drake had sexually assaulted two different women and had bound their hands behind their backs. The first incident occurred twenty months before the death of Ms. Reeder, and the second incident occurred two months before the death of Ms. Reeder. The State sought to prove the identity of the killer by showing Drake's mode of operation.

The Court held that a mere similarity between the crimes will not render the similar facts legally relevant to show identity. The similar facts must be of some special character or be so unusual as to point to the defendant. Because binding of the hands occurs in many crimes involving many different defendants, the Court reasoned that this was not sufficiently unusual to point to the defendant. In the instant case, the second burglary occurred differently than the first burglary, i.e. through a window rather than a door, and occurred no differently than many other burglaries occur throughout. As a result this Court should not allow evidence of the prior burglary, which occurred eight months earlier, to be admitted at trial.

In Stephens v. State, 662 So.2d 394 (Fla. 5<sup>th</sup> DCA 1995), the defendant was accused of robbing an ABC liquor store employee at gunpoint. The State filed notice of intent to introduce evidence of a Holiday Inn robbery which occurred three days after the ABC robbery. The trial court allowed introduction of the Holiday Inn robbery at trial.

The Fifth District reversed the trial courts ruling. It found that the State did not demonstrate a unique Modus Operandi. The Court held that while there were several similarities between the ABC robbery and the Holiday Inn robbery, there were no special characteristics which are so unusual as to point to the defendant. Both robberies could best be described as typical armed robberies. In the instant case, the burglaries can be described as typical in that nothing stands out on either case. The only thing similar is a red car that was used. Nothing was so unique or particularly unusual about the defendant or in the modus operandi that would establish that he committed the crime.

The case of Miller v. State, 791 So.2d 1165 (Fla. 4<sup>th</sup> DCA 2001) illustrates the number of similarities required before Williams Rule evidence may be admitted. Miller was charged with two cases of attempted first degree murder and two burglary with an assault or battery. The State was allowed to introduce similar fact evidence over objection in order to prove identity, so the cases were consolidated at trial.

The trial consisted of evidence that in September 1998, Miller entered a house of a woman who was out walking her dog. When she returned to the house, Miller for no apparent reason stabbed the woman. In the consolidated case, it was alleged that in June 1997, Miller knocked on a woman's door and entered her house. Once inside he stabbed this woman for no apparent motive. Miller was convicted as charged in both cases and he appealed the introduction of the similar fact evidence.

The Appellate Court reversed the trial court's ruling. It held that it is insufficient that a collateral crime witness can identify the accused. Instead, the points of similarities must have some special character or be so unusual as to point to the defendant. The Court held that it is not enough that there is greater similarity than dissimilarity between the crimes, but rather there must be something unique or particularly unusual about the perpetrator or his modus operandi, that would tend to establish that he committed the crimes. The crimes charged had no identifiable points of similarity pervading both incidents that were so unique as to point to Miller. Because the similarities were so general, they could be found in a vast member of like crimes. As a result, the trial court erred in allowing the evidence. In the instant case, the similarities of the two burglaries are negligible and should not be allowed at trial.

CONCLUSION

In conclusion, because the burglaries show no similarities other than a red car used in each this Court should not allow the State's evidence to be introduced. There was an eight-month time lapse between the two burglaries, the modus operandi was different and there was nothing unusual or fingerprint type evidence linking the two. As a result the crimes are not similar and should not be introduced at trial.

Respectfully submitted,

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MITCHEL NOVAS  
ASSISTANT PUBLIC DEFENDER  
Florida Bar Number: 0754810  
251 North Ridgewood Avenue  
Daytona Beach, Florida 32114  
(386) 239-7730

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by delivery to: Assistant State Attorney, 251 North Ridgewood Avenue, Daytona Beach, FL 32114, this \_\_\_\_\_ day of.

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MITCHEL NOVAS  
ASSISTANT PUBLIC DEFENDER