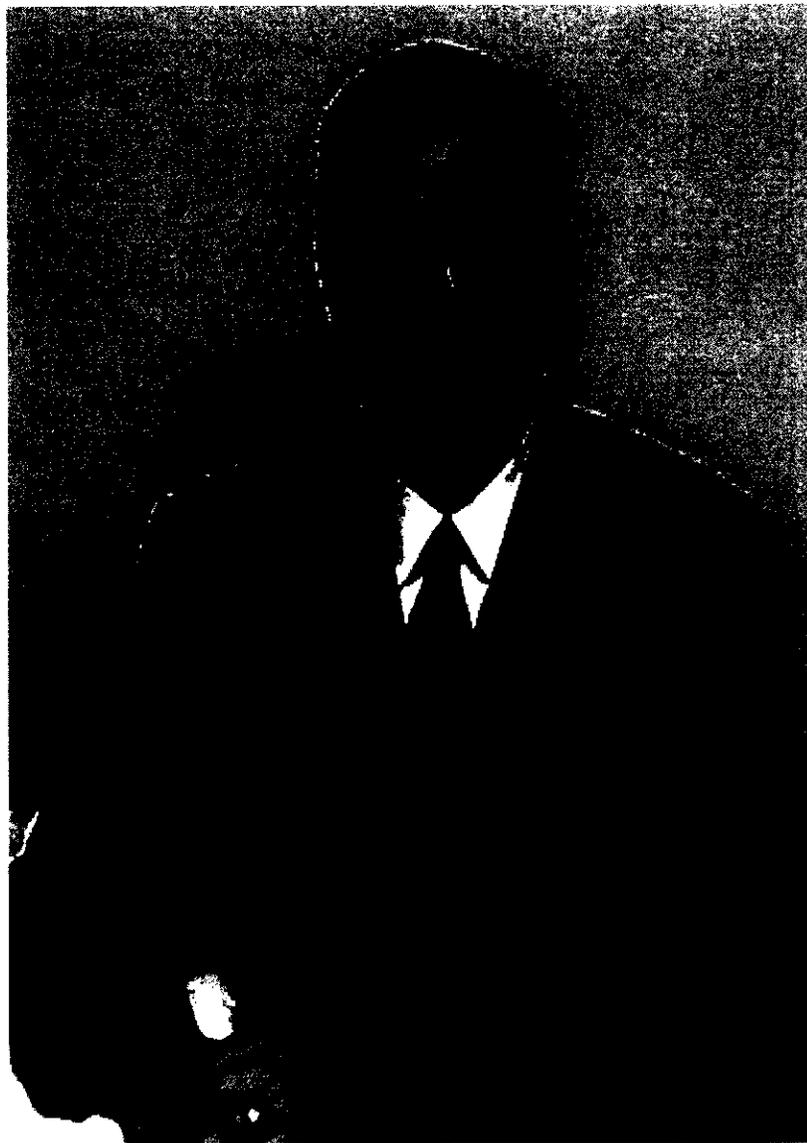


PHOTOGRAPH OF APPLICANT
RANDALL D. EGGERT



**APPLICATION OF RANDALL D. EGGERT
FOR ASSOCIATE CIRCUIT JUDGE
31st CIRCUIT JUDICIAL COMMISSION
GREENE COUNTY, MISSOURI (as adopted June 8, 2009)**

RESPONSES TO THESE QUESTIONS WILL BE MADE PUBLIC IF THE APPLICANT IS NOMINATED.

NOTE – Please submit seven (7) paper copies with attachments.

1. Present principal occupation and title: **Assistant United States Attorney, United States District Court for the Western District of Missouri**

2. What is your age? **50**

3. (a) How many years have you been a citizen of the United States? **50 years**

(b) How long have you been a Greene County resident? **18 years**

(c) How many consecutive years immediately preceding your application have you been a qualified voter of Missouri? **33 years**

4. State the date you were admitted to The Missouri Bar and whether your license is in good standing. If not, explain in detail.

10-4-91. My license is in good standing.

5. List any other states, courts, or agencies in which you are licensed as an attorney.

United States Court of Appeals for the Eighth Circuit.

6. (a) State the name and address of all colleges and universities attended, other than law school, together with the dates and degrees received.

**1. University of Missouri-Kansas City, 5100 Rockhill Road, SSC 101
Kansas City, MO 64112, August 1982-December 1982- No Degree.**

**2. Baptist Bible College, 628 E. Kearney Street, Springfield, MO, 65803,
August 1983-May 1987-B.S. in Theology.**

3. Missouri State University, 901 S National Ave, Springfield, MO 65897,

August 1986-May 1988-M.A. in History.

(b) List/describe any college or university activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

Resident Assistant, Baptist Bible College, 1984-86

Graduate Assistant, Missouri State University, 1987-88

President, Phi Alpha Theta History Fraternity, 1987-88

Presentation of Paper: "Harry S Truman and the Baptist Church" Phi Alpha Theta Student History Conference, April, 1988

(c) Attach a certified copy of college, university and law school transcripts here, or have the institutions send transcripts direct to the contact person.

See Attachment A

7. (a) State the name and address of all law schools attended together with the dates and degrees received.

University of Missouri-Columbia, 203 Hulston Hall, Columbia, Missouri, 65211, August 1988-May 1991-J.D.

(b) List/describe any law school activities, scholastic achievements and other awards or honors you think are relevant to the commission's decision.

Class Rank 8/156

Missouri Law Review, 1989-91

Associate Managing Editor, Missouri Law Review, 1990-91

Order of the Coif, 1992 (top ten percent of class)

Order of Barristers, 1991 (top trial and appellate advocacy students)

Member, University of Missouri National Moot Court Team, 1989-91

Member, Board of Advocates, 1988-91

Winner, Thomas Deacy Prize in Trial Advocacy, 1991

Winner, Law Review Production Award for Most Valuable Contribution to the Review's Production, 1989-90

Winner, American Jurisprudence Award, Appellate Advocacy, 1989 (awarded for highest grade in Appellate Advocacy for semester)

8. State, in chronological order (starting with the earliest employment) (a) significant non-law-related employment prior to law school and (b) all employment from the beginning of law school to the present. To the extent reasonably available to you, include the name and address of each employer and the dates of employment, and, for legal employment, describe the positions you have held, e.g., associate, partner, law clerk, general counsel.

a. Employment prior to law school:

1. Hardee's Restaurant, Grandview, Missouri, 1981-83
2. Baptist Bible College, Resident Assistant, 1984-86
3. Missouri State University, Graduate Assistant, 1987-88
4. History Instructor, Baptist Bible College, 1987-88
5. Stocker, Coca-Cola Bottling Company, Springfield, Missouri, 1987-88

b. Legal Employment during and after law school:

1. Summer Intern, Missouri Attorney General's Office, Fletcher Daniels State Office Building, 615 E. 13th Street, Suite 401, Kansas City, MO 64106, May 1989-August 1989. Responsibilities: drafting of government responses to motions filed by defendants, drafting of appeal briefs under direction of Assistant Attorney Generals, drafting of memorandum upon request of Assistant Attorney Generals on legal issues.

2. Graduate Law Assistant, University of Missouri Law School, 203 Hulston Hall, Columbia, Missouri, 65211, September 1989-May 1990. Responsibilities: assist law professors with first year law students in legal research and writing class.

3. Law Clerk, Kutak Rock, 1650 Farnam Street, The Omaha Building, Omaha, NE 68102-2186, May 1990-August 1990. Responsibilities: draft of briefs and legal memorandum as directed by partners of the firm.

4. Missouri Supreme Court Law Clerk, Honorable Ann K. Covington, Chief Judge, Supreme Court of Missouri, High and Washington Streets, P.O. Box 150, Jefferson City, Missouri 65102, August 1991-July 1993. Responsibilities: Drafting of legal memorandum, legal research and writing for Missouri Supreme Court Judge.

5. Associate, Shook, Hardy and Bacon, 2555 Grand Blvd, Kansas City, Missouri 64108, August 1993-December 1994: Responsibilities: Preparation of pre-trial motions, legal research and writing, discovery practice in state and federal courts.

6. Assistant Prosecuting Attorney, Platte County, Missouri, 328 Main Street, Platte City, Missouri 64079, January 1995-October 1997. Responsibilities: Prosecution of State narcotics cases, including presentations to state grand juries, pretrial motions and practice, trial

preparation and practice, post-trial motions, state forfeiture and appeals.

7. City Attorney, Avondale, Missouri, 3007 Highway 10, Avondale, Missouri 64117, January 1996-October 1997. Responsibilities: Drafting of municipal ordinances, advising city council of legal issues, administration of traffic court.

8. Special Assistant United States Attorney, Western District of Missouri, 901 St. Louis Street, Suite 500, Springfield, Missouri 65806, November 1997-August 1999. Responsibilities: Prosecution of Federal criminal cases, including presentations to federal grand juries, pretrial motions and practice, trial preparation and practice, post-trial motions, and appeals.

9. Assistant United States Attorney, Western District of Missouri, 901 St. Louis Street, Suite 500, Springfield, Missouri 65806, August 1999-Present. Responsibilities: Prosecution of Federal criminal cases, including presentations to federal grand juries, pretrial motions and practice, trial preparation and practice, post-trial motions, and appeals. Member, Western District of Missouri Joint Terrorism Task Force, 2003-present. Member, United States Department of Justice Office Evaluation Program, 2010-present. Office Representative to United States District Court for the Western District of Missouri Re-entry Program, 2012-present.

c. Non-Legal Employment after law school:

1. Faculty Instructor, Drury University, 900 N. Benton, Springfield, Missouri 65802, August 1999-December 2012. Responsibilities: Instructor in criminal and constitutional law, legal philosophy, litigation and paralegal studies.

2. Faculty Instructor, Baptist Bible College, 628 E. Kearney, Springfield, Missouri 65803, September 2009-December 2012. Responsibilities: Instructor in United States Government.

3. Faculty Instructor, Maple Wood Community College, 2601 NE Barry Road, Kansas City, Missouri 64156-1299, August 1994-December 1994. Responsibilities: Instructor in United States Government.

9. If you were a student at any school from which you were suspended, placed on probation, or expelled by school authorities, for any reason, describe the circumstances.

N/A

10. Describe the nature of your experience in trial and appellate courts and explain how they demonstrate the quality of your legal work. (*You either may take as much space as you need here or attach your response on separate sheets*). Include in your response:

- a) **Appellate Experience:** Please include a representative list of cases you have briefed and/or argued (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court and, if published, the citation; identify the client(s) you represented and opposing counsel; give a one-paragraph description of the case and your role.

I have had primary or sole responsibility for 58 cases on appeal to either the United States Court of Appeals for the Eighth Circuit or the Missouri Courts of Appeals. Of these 58 cases, I have prepared briefing and/or participated in oral arguments before the particular court on 39 occasions. The following is a description of ten recent published federal cases on appeal as well as one of the state cases which I had sole or primary responsibility on appeal. These cases demonstrate not only the extent of my appellate work, but also reflect its variety, involving appeals in diverse areas of criminal law and civil forfeiture.

1. *United States v. Hill*, 750 F.3d 982 (8th Cir. 2014). I represented the United States in this appeal by defendant Jason Hill from his conviction and sentence of 144 months after a jury trial. I was the lead attorney at both the trial and appeal stage and wrote the appeal brief. Opposing counsel was Don Cooley of Springfield, Missouri. This case involved the receipt and distribution of child pornography. On appeal, Hill alleged that the government had violated his Fourth Amendment rights when undercover government agents downloaded child pornography pictures that Hill had made available in a peer-to-peer file-sharing folder on his computer. Hill also alleged a double jeopardy violation occurred, and that the trial evidence was insufficient to support Hill's conviction for possessing child pornography and his conviction for receiving and distributing child pornography. The Eighth Court of Appeals, in a unanimous decision, affirmed the jury court's decision, adopting the government's arguments made in the appeal brief that Hill had no privacy interest to computer files that he had placed on a peer-to-peer file sharing program, that the defendant was not placed in double jeopardy by his conviction of both distribution and possession of child pornography, and that the evidence was sufficient to support the defendant's convictions.

2. *United States v. Sayles*, 754 F.3d 564 (8th Cir. 2014). I represented the United States in this joint appeal filed by defendants Martinus Sayles and Maurice Sayles. Martinus Sayles was represented by Ian Lewis, Assistant Federal Public

Defender, Springfield, Missouri, at both the district and appeal court levels. Maurice Sayles was represented by Larry Tyrell, Springfield, Missouri, at the district court level and Ruth B. Sanders, Kansas City, Missouri, at the appellate court level. I was the lead attorney at both the district and appeal court stages, wrote the appeal brief, and made the oral argument in this case. The defendants had been involved in a counterfeit check passing scheme, in which the defendants, who were brothers, along with others, stole mail from United States mail boxes, created counterfeit checks from original checks found in the stolen mail, and then passed the checks at businesses in the Kansas City and Springfield areas. Both defendants received sentences of 85 months from the district court. On appeal, both defendants argued that the sentences of 85 months were unreasonable under the facts of the case. Defendant Maurice Sayles also argued that the government breached the plea agreement by arguing for Maurice Sayles' sentence to be the same as co-defendant Martinus Sayles. The Eighth Circuit Court of Appeals, in a unanimous decision, adopted the government's argument made on appeal, found that the sentence of 85 months for both defendants was reasonable under the facts of the case and the government's breach of the plea agreement did not prejudice Sayles since it did not affect the court's decision to sentence Martinus Sayles to 85 months.

3. *United States v. Stringer*, 739 F.3d 391 (8th Cir. 2014). I represented the United States in this appeal involving defendant Timothy Stringer's appeal from his sentence of 360 months for manufacture, and possession, of child pornography. I wrote the appeal brief in this case and represented the United States in oral argument on the matter. Stringer was represented by Ann Koszuth of the Federal Public Defender's Office, Springfield, Missouri. Stringer was convicted of manufacturing child pornography he made of two minor females whom he provided methamphetamine. On appeal, Stringer argued that a stop of his vehicle by the Missouri State Highway Patrol violated his Fifth Amendment rights, that a warrantless search of his camera and cell phone by the Patrol during the car stop also violated his Fifth Amendment rights, and finally, that one of the minors had been emancipated by a marriage at the time of the offense, meaning the her images were not "child" pornography. The Eighth Circuit Court of Appeals in an unanimous decision rejected each defendant claim, and adopted the government arguments, that the car stop was valid under the circumstances of the case, that the defendant did not have standing to argue against the search of one of the minor females cell phones, which contained also child pornography the defendant manufactured, and that the married minor was still a minor under the plain language of the statute, thus making the issue of her emancipation irrelevant.

4. *United States v. Brumfield*, 686 F.3d 960 (8th Cir. 2012). I represented the United States in this matter involving defendant Phillip Brumfield's appeal from his conviction and sentence of 120 months for possession of child pornography after a jury trial. The defendant was represented at the trial and appellate level by

Dee Wampler, Springfield, Missouri. The defendant asserted that the trial court abused its discretion to allow the testimony of a minor in the defendant's neighborhood who testified that the defendant publicly exposed his genitals as well as propositioned the minor in an attempt to manufacture child pornography. The defendant also asserted that the trial court abused its discretion in admission of notes made by the defendant discussing child sexuality and how children as young as six "enjoyed" adult sexual intercourse. The defendant finally asserted that the trial court abuse its discretion in admitting defendant's computers, hard drives, and computer disks into evidence, because the seizing officer had died between the time of the seizure of the evidence and of trial. The Eighth Circuit Court of Appeals, in an unanimous decision, ruled against each defendant argument, and adopted the positions asserted in the government brief that the minor's testimony was relevant to the case, that the defendant had opened the door to allow admission of the defendant's notes describing child sexuality because the defendant had in his testimony denied any interest in child sex, and finally because the government had laid a sufficient foundation for the chain of custody of the evidence seized by the dead officer to allow it to be admitted into evidence.

5. *United States v. Harris*, 669 F.3d 908 (8th Cir. 2012). I represented the United States in this matter involving Cale Harris' appeal from his sentence of 220 months for conspiracy to distribute marijuana, discharging firearm in furtherance of drug trafficking crime, and conspiracy to commit money laundering. I wrote the appeal brief in this matter. The defendant Harris was represented on appeal by Marsha Jackson, Springfield, Missouri. The defendant asserted that the sentencing court misapplied the United States Sentencing Guidelines by failing to specify that his sentence was to run concurrently with remainder of allegedly undischarged portion of state sentence stemming from related conduct. The Eighth Circuit Court of Appeals, in a unanimous decision, rejected the defendant's argument, and adopted the government's position that the defendant's argument was rendered moot by the fact that his state sentence had already been discharged.

6. *United States v. Raifsnider*, 663 F.3d 1004 (8th Cir. 2011). I represented the United States in this matter involving Edward Raifsnider's appeal from his sentence of 216 months for a variety of federal convictions which involved two indictments, including possession of a firearm by a felon, interstate transportation of stolen property, possession of identity documents or authentication features with intent to unlawfully use or transfer them, possessing a document-making implement with intent to produce false identification, and aggravated identity theft. I wrote the appeal brief in this matter and represented the government in oral argument. The defendant Raifsnider was represented on appeal by John Kizer, Springfield, Missouri. The defendant asserted that the government was precluded from filing the second indictment in the case charging interstate transportation of stolen property, possession of identity documents or authentication features with intent to unlawfully use or transfer them, possessing a

document-making implement with intent to produce false identification, and aggravated identity theft, by the defendant's written plea agreement to possession of a firearm by a convicted felon. The Eighth Circuit Court of Appeals, in an unanimous decision, rejected the defendant's argument, and adopted the government's position, that an amendment to the written plea agreement requiring the government to make a binding 180-month sentencing recommendation for firearm violation to which defendant was pleading guilty did not extend to potential fraud charges, and the prosecutor's statement at plea hearing did not amount to promise that Government would file fraud charges before defendant was sentenced on firearm violation, so that the sentencing proceedings could be consolidated.

7. *United States v. Mohamed*, 600 F.3d 1000 (8th Cir. 2010). I represented the United States in this matter involving defendant Elias Mohamed. Mohamed was involved in a conspiracy to fraudulently obtain commercial driver's licenses from the State of Missouri. This fraudulent scheme involved Mohamed and others bribing persons who administered CDL testing at a truck driving school located in West Plains, Missouri. Other defendants pled guilty, Mohamed went to trial, was convicted, and sentenced to 12 months. I was the trial attorney, wrote the appeal brief and presented oral argument in the case. Defendant Mohamed was represented by Robert Lewis, Springfield, Missouri. On appeal, Mohamed argued that a Minnesota State Trooper unreasonably extended the defendant's seizure during a routine traffic stop by prolonging the seizure by five minutes to conduct a canine search of vehicle, that verdict director instruction included a fatal variance from the indictment, and the government failed to show that overt act was committed by defendant in the conspiracy. The Eighth Circuit Court of Appeals, in a unanimous decision rejected each argument by the defendant, affirmed the defendant's conviction and adopted the government's positions articulated in the appeal brief.

8. *United States v. Parker*, 587 F.3d 871 (8th Cir. 2009). I represented the United States in this matter involving defendant Marzett Parker. Parker was involved in a conspiracy to distribute PCP as well as possession of 40 gallons of PCP for purposes of distribution. At the time of the seizure, it was the largest seizure of PCP in the state of Missouri by either the DEA or Missouri state officials. Parker went to trial in the case, was convicted, and received a sentence of 324 months. I was the trial attorney, wrote the appeal brief, and presented oral argument in the case. Defendant Parker was represented by Don Cooley, Springfield, Missouri. On appeal, Parker asserted that the defendant was unlawfully detained by Missouri State Highway Patrol Troopers when his vehicle was stopped and subjected to a random administrative check, that the trial court erred in admitting a cooperating coconspirator's testimony which identified defendant by an alias and in denying the defendant's motion for a continuance, and that the evidence was insufficient to support the conspiracy and possession with

intent to distribute convictions. The Eighth Circuit Court of Appeals, in a unanimous decision affirmed the defendant's conviction and adopted the government's positions articulated in the appeal brief in opposition to each defendant claim.

9. *United States v. Davis*, 569 F.3d 813 (8th Cir. 2009). I represented the United States in this matter involving defendant Uneal Davis. Davis was convicted of possession of a firearm by a felon and an unlawful user of drugs and received a sentence of 70 months. I wrote the appeal brief and participated in oral argument regarding the case. Defendant Davis was represented by Assistant Federal Public Defender Michelle Law of Springfield, Missouri. The defendant on appeal argued that a Joplin, Missouri, Police Officer's warrantless search of vehicle violated the defendant's rights under the Fourth Amendment. The government in response argued that the search fell within search incident to arrest exception, and the officer was permitted to search driver's vehicle under the automobile exception. The Eighth Circuit Court of Appeals, in a unanimous decision affirmed the defendant's conviction and adopted the government's positions articulated in the appeal brief in opposition to each defendant claim.

10. *United States v. Foxx*, 544 F.3d 943 (8th Cir. 2008). I represented the United States in this matter involving the appeal of three defendants after a jury trial in which each was convicted of conspiracy to distribute in excess of 1000 kilograms of marijuana. The three defendants were Damien Foxx, represented by Stuart Huffman, Willie Foxx, represented by Shane Cantin, and Danny Osborne, represented by David Healey. Each defendant was convicted after a six day jury trial. Damien Foxx received a sentence of 210 months, while Willie Foxx and Danny Osborne each received a sentence of 120 months. I wrote the appeal brief and participated in oral argument regarding the case. The defendants argued that the evidence was not sufficient to support their convictions. The government responded that the evidence, which primarily in the form of wiretap interceptions from Damien Foxx's telephone and marijuana seizures based upon police surveillance, was more than sufficient to support the defendants' convictions. The Eighth Circuit Court of Appeals, in a unanimous decision affirmed the defendant's conviction and adopted the government's positions articulated in the appeal brief in opposition to each defendant claim.

11. *State v. Scott*, 933 S.W.2d 884 (Mo. App. W.D. 1996). I represented the State of Missouri while an Assistant Platte County, Missouri, Prosecutor, in this Civil Forfeiture Proceeding. I wrote the appeal brief for the State of Missouri in this case. The defendant represented himself, *pro se*, on appeal. After defendant pled guilty to drug charges and was incarcerated, defendant received notice of prosecutor's forfeiture action, and moved to dismiss. The Circuit Court ordered property forfeited. Defendant appealed. The Court of Appeals, adopted the positions of the government in its appeal brief and held that: (1) three-year lapse

between state's filing of forfeiture petition and hearing did not establish laches; (2) circuit court was not obligated to order, *sua sponte*, inmate's appearance at forfeiture hearing; and (3) *in rem* civil forfeiture was not "punishment" for double jeopardy purposes.

- b) **Trial-Level Experience:** Please include a representative list of cases and/or administrative hearings you have handled (if you are a judge, include representative cases from your practice prior to your judicial appointment) including, to the extent reasonably available to you, the style, date, and court; identify who you represented and opposing counsel; state whether the case was disposed of following a jury trial, bench trial or at what other stage; give a one-paragraph description of the case and your role.

As an Assistant United States Attorney I have participated as the lead attorney, or second chair, in 24 felony jury trials and one misdemeanor jury trial. As a state prosecutor, I participated in at least ten felony jury trials. In every trial that I participated in, I have significant involvement, which included presenting opening statements and closing argument, presenting government witnesses, cross-examination of defense witnesses, preparing in limine motions regarding evidence presentation and jury instructions to be given by the court before deliberation. The eleven most recent felony jury trials I have participated in are summarized below:

1. ***United States v. Wesley Coonce and Charles Hall*, 10-03029-CR-GAF.** From April 28 to June 2, 2014, I was the lead counsel for the United States in the capital murder jury trial of Wesley Coonce and Charles Hall. The defendant Wesley Coonce was represented by Thomas Carver and Shane Cantin of Springfield, Missouri and Matthew Rubenstein, Assistant Federal Public Defender from Portland, Oregon. Defendant Charles Hall was represented by Fred Duchardt of Kansas City, Missouri, and Robert Lewis of Springfield, Missouri. The trial judge was Hon. Gary A. Fenner. Coonce and Hall were inmates at the United States Medical Center for Federal Prisoners in Springfield, Missouri, and there they attacked and killed a fellow inmate on January 26, 2010. Both Coonce and Hall had prior felony convictions and Attorney General Eric Holder certified the case to allow the government to seek the death penalty. My responsibility for the case included obtaining approval from the Attorney General to seek the death penalty, coordinate responses to various pretrial motions, organize the presentation of over 55 government witnesses and over 500 trial exhibits, present opening statement and closing argument in the guilt portion of the trial, and present the final argument for the death penalty in the penalty portion of the case. My co-counsel in the case was Jim Peterson of the Department of Justice Capital Crime Unit, Washington, D.C. I was also assisted in the case by Assistant United States Attorney Gary Milligan, Springfield, Missouri. On May 7, 2014, the jury returned a verdict of guilty as to both defendants, and on June 2, 2014, the jury

imposed a sentence of death on both defendants. The case is currently on appeal before the Eighth Circuit Court of Appeals. This case was the first time a federal jury has imposed the death penalty in the Southern Division of the Western District of Missouri since the re-imposition of the federal death penalty in 1994.

2. *United States v. Jason Hill, 10-05044-CR-DGK.* From September 25 to 27, 2012, I was the lead counsel in the felony jury trial of Jason Hill. I was assisted by Special Assistant United States Attorney Ami Miller. Hill was represented by Don Cooley of Springfield, Missouri, and the trial judge was Hon. D. Greg Kays. Hill was accused of possession, and distribution, of child pornography. I was responsible for opening statement and closing argument, organized and presented all witnesses except one, participated in cross-examination of the defendant, who took the stand in his defense, and prepared the jury instructions in the case. The jury convicted Hill on all counts with which he was charged. Hill received a sentence of 144 months. Hill appealed, and the Eighth Circuit affirmed. *United States v. Hill*, 750 F.3d 982 (8th Cir. 2014).

3. *United States v. Derrick Haggard, 11-03061-CR-RED.* From January 9 to 13, 2012, I was lead and sole counsel in the felony jury trial of Derrick Haggard. Haggard was represented by John Kizer of Springfield, Missouri. The trial judge was Hon. Richard E. Dorr. Haggard was part of multi-state criminal conspiracy which stole U.S. mail, took original checks from the theft, manufactured counterfeit checks, and then passed the counterfeit checks in Missouri, Arkansas, Oklahoma, and Kansas. The conspiracy was responsible for the theft of \$178,211.91 as a result of their fraudulent activity. At trial, I was responsible for opening statement and closing argument, presented all 27 government witnesses, prepared in limine motions regarding the presentation of evidence, and prepared the jury instructions in the case. The jury convicted Haggard of all counts presented in the case. Haggard received a sentence of 216 months. Haggard appealed and the Eighth Circuit affirmed. *United States v. Haggard*, 509 Fed.Appx. 558 (8th Cir. 2013).

4. *United States v. Shane Fleetwood, 10-03021-CR-RED.* From March 15 to 16, 2011, I was the lead and sole attorney in the felony jury trial of Shane Fleetwood. Fleetwood was represented by Roger Jones of Springfield, Missouri. The trial judge was Hon. Richard E. Dorr. Fleetwood was accused of violating the Mann Act by taking a minor, in this case the age of 14, across state lines for the purpose of engaging in sexual intercourse with the minor. At trial I was responsible for in limine motions, preparation and presentation of government witnesses, jury instructions and opening statements in the case. On the second day of the trial, after the victim and the victim's mother testified in the case, the defendant chose to end the trial by guilty plea. Fleetwood received a sentence of 220 months. Fleetwood appealed and the Eighth Circuit affirmed. *United States v. Fleetwood*, 457 Fed.Appx. 591 (8th Cir. 2012).

5. *United States v. Phillip Brumfield, 09-03038-CR-RED.* From May 3 to 4, 2010, I was the lead and sole attorney in the felony jury trial of Phillip Brumfield. Brumfield was represented by Dee Wampler of Springfield, Missouri. The trial judge was the Hon. Richard E. Dorr. Brumfield was accused of possession of child pornography. Brumfield had also solicited children in his neighborhood in Pleasant Hope, Missouri, to let him take pornographic pictures of them. Brumfield also exposed himself to children in his neighborhood. At trial I was responsible for the presentation of all government evidence, the direct and cross examination of witnesses, including the defendant who testified at trial, *in limine* motions seeking to exclude evidence, opening statement and closing arguments. Brumfield was convicted of all counts in the indictment. Brumfield received a sentence of 120 months, which was the statutory maximum. Brumfield appealed and his sentence was affirmed. *United States v. Brumfield*, 686 F.3d 960 (8th Cir. 2012).

6. *United States v. Scott Johnson, 09-03007-CR-RED.* From December 14 to 16, 2009, I was the second chair and co-counsel with lead attorney, Assistant United States Attorney James Kelleher in the felony jury trial of Scott Johnson. Johnson was represented by Robert Torp of Springfield, Missouri. The trial judge was the Hon. Richard E. Dorr. Johnson was accused of manufacturing child pornography. The defendant, a weightlifting coach of minor female athletes, rigged a video camera in a changing room and secretly filmed his students dressing and undressing in the room. At trial, I was responsible for presentation of some government witnesses and cross examined one defense witness. I also gave the closing argument and rebuttal to the jury. Johnson was convicted. The district court issued a judgment of acquittal in the case, notwithstanding the verdict, but on appeal, the Eighth Circuit Court of Appeals reinstated the verdict in an appeal handled by AUSA Kelleher. *United States v. Johnson*, 639 F.3d 433 (8th Cir. 2011). On remand, the district court sentenced the defendant to 180 months.

7. *United States v. Elias Mohamed, 06-03114-CR-GAF.* From January 5 to 6, 2009, I was the lead and sole counsel in the felony jury trial of Elias Mohamed. Mohamed was represented by Robert Lewis of Springfield, Missouri. The trial judge was the Hon. Gary A. Fenner. Mohamed was part of a large scale conspiracy to defraud the State of Missouri of the honest services of state employees responsible for administration of the state commercial driving license (CDL). Mohamed, along with others, bribed state CDL driving examiners to pass individuals who did not take the CDL driving test or initially failed the CDL driving test. At trial, I prepared responses to defendant in limine motions seeking to exclude government evidence, prepared and presented the government witnesses, presented opening statements and closing arguments and drafted proposed jury instructions for the court. Mohamed was convicted of all counts in the indictment that he was charged with and the district court sentenced him to 12

months and one day. Mohamed appealed his conviction and sentence and the Eighth Circuit of Court of Appeals affirmed. *United States v. Mohamed*, 600 F.3d 1000 (8th Cir. 2010).

8. *United States v. Wade Bohmont and Colton Inmon*, 07-03103-CR-DW.

From December 15 to 17, 2008, I was the lead and sole attorney in the felony jury trial of co-defendants Wade Bohmont and Colton Inmon. Wade Bohmont was represented by Stuart Huffman, of Springfield, Missouri. Colton Inmon was represented by Stacie Bilyeu of Springfield, Missouri. The trial judge was the Hon. Dean Whipple. Bohmont and Inmon were involved in a conspiracy to distribute in excess of 50 grams of methamphetamine out of a hotel room in downtown Springfield. At trial, I prepared responses to defendant in limine motions seeking to exclude government evidence, prepared and presented the government witnesses, presented opening statements and closing arguments, and drafted proposed jury instructions for the court. The defendants were both convicted of all counts in the indictment as charged. Bohmont was sentenced to 280 months. Inmon was sentenced to 51 months. Bohmont and Inmon appealed their convictions and sentences. The Eighth Circuit Court of Appeals affirmed the verdicts and sentences. *United States v. Bohmont*, 413 Fed.Appx. 946 (8th Cir. 2011).

9. *United States v. Marzett Parker and Odell Edwards*, 06-05018-CR-RED.

From February 20 to 27, 2008, I was lead and sole attorney in the felony jury trial of co-defendants Marzett Parker and Odell Edwards. Parker was represented by Don Cooley of Springfield, Missouri. Edwards was represented by Ann Koszuth of the Federal Public Defenders Office, Springfield, Missouri. The trial judge was the Hon. Richard E. Dorr. Parker and Edwards were part of a nationwide conspiracy to manufacture, transport and deliver PCP from Los Angeles, California to Philadelphia, Pennsylvania. A shipment of 40 gallons of PCP was seized in a vehicle driven by Parker and in which Edwards was a passenger. The seizure was at the time the largest seizure of PCP in the history of the Missouri State Highway Patrol. At trial, I prepared responses to defendant in limine motions seeking to exclude government evidence, prepared and presented the government witnesses, presented opening statements and closing arguments, and drafted proposed jury instructions for the court. Parker was convicted by the jury of all counts. Edwards was acquitted. Parker was sentenced to 324 months. Parker appealed his conviction and sentence and the Eighth Circuit affirmed. *United States v. Parker*, 587 F.3d 871 (8th Cir. 2009).

10. *United States v. Damien Foxx, Willie Foxx and Danny Osborne*, 05-03096-CR-RED. From June 25 to July 3, 2007, I was the lead attorney in the felony jury trial of co-defendants Damien Foxx, Willie Foxx and Danny Osborne. Damien Foxx was represented by Stuart Huffman of Springfield, Missouri, Willie Foxx was represented by Shane Cantin of Springfield, Missouri, and Danny Osborne

was represented by David Healey of Springfield, Missouri. The trial judge was the Hon. Richard E. Dorr. Damien Foxx was the leader of a large marijuana distribution enterprise that resulted in the seizure of over one million dollars and the forfeiture of various cars and other assets. The indictment was the result of a judicially ordered Title III wiretap which led to the arrest, indictment, and conviction of over 25 persons. At the time of the investigation, Damien Foxx was considered one of the primary marijuana distributors in southwest Missouri. At trial, I prepared responses to defendant in limine motions seeking to exclude government evidence, prepared and presented the government witnesses, presented opening statements and closing arguments, and drafted proposed jury instructions for the court. All three defendants were convicted after trial. Damien Foxx was sentence to 210 months. Both Willie Foxx and Danny Osborne received sentences of 120 months each. All three defendants appealed their convictions. The Eighth Circuit Court of Appeals affirmed the convictions. *United States v. Foxx*, 544 F.3d 943 (8th Cir. 2008).

11. *United States v. Thomas Smith*, 02-05025-CR-GAF. From January 24 to February 15, 2007, I was co-counsel with lead attorney Assistant United States Attorney David P. Rush in the death penalty trial of Thomas Smith. Smith was represented by Michael Joyce of Overland Park, Kansas, and Susan Hunt of Shawnee, Kansas. The trial judge was the Hon. Gary A. Fenner. Thomas “Maddog” Smith was a member of the “Bloods” gang in Tulsa, Oklahoma, who set up a crack cocaine distribution ring in Joplin, Missouri. During the operation of the conspiracy to distribute crack cocaine, Smith killed a person whom he believed had stolen crack cocaine from him as well as that person’s girlfriend, who happened to be in the house when Smith committed the murder. Prior to trial, the defendant pled guilty to the conspiracy to distribute crack cocaine and proceeded to trial on the federal murder charge. I had significant responsibility at trial, including responding to in limine motions filed by the defendant seeking to exclude evidence in the case, jury instructions for both the guilt and penalty phase in the case, and the presentation of evidence in the guilt phase of the trial, primarily the law enforcement and forensic evidence in the case. The forensic evidence including a shoe print that was matched to a Nike tennis shoe recently purchased by Smith. Smith was convicted by the jury of murder on February 7, 2007. During the penalty phase of the case I presented the opening statement and closing argument for death. I also presented law enforcement testimony and evidence in support of the death penalty. The jury was unable to unanimously agree as to imposition of the death penalty and the district court, therefore, as required by law, imposed the sentence of life without parole on Smith. Smith did not appeal the conviction or sentence.

- c) **Judicial Experience:** If you are a judge, commissioner, or are serving or have served in other judicial capacity, please describe the nature and extent of your judicial responsibilities, including the dates you have served as a judge at each

level, the types of dockets you have handled, and any special expertise you have developed that you believe is relevant to your qualifications for the position for which you are applying.

N/A

11. (a) Describe any additional legal experience that you believe may be relevant to the commission's decision, including clients by category that you have represented.

While working at Shook, Hardy and Bacon, I was given responsibility to research the law regarding expert testimony which I provided to partners involved in the area of medical products litigation. This research was used extensively by partners in papers they presented in the area of expert testimony. See Marie S. Woodbury & Harvey L. Kaplan, Daubert and "Junk Science:" Using Daubert to Exclude Expert Testimony, 497 PLI/Lit 459 (Mar.-Apr., 1994).

While at Shook, Hardy and Bacon, I also participated extensively in the firm's pro bono program, representing minors in a guardian ad litem capacity. I also worked extensively on a state post-conviction relief motion involving defendant Donald L. Dixon, who was convicted by a Jackson County jury with murder. While at Shook, Hardy and Bacon, I drafted a post-conviction document which alleged that the state had illegally convicted the defendant with a mutually exclusive theory of guilt from a co-defendant who had been tried separately. This theory was eventually accepted by a Jackson County, Missouri, judge and Dixon was released from custody only to later be convicted in federal court with a firearms offense. See *United States v. Dixon*, 360 F.3d 845, 846 (8th Cir. 2004).

While working as the City Attorney for Avondale, Missouri, I compiled and codified the first municipal code for the city. Prior to 1997, the city did not have a code book consisting of all municipal ordinances passed by the city council.

While working for the United States Attorney's Office, I have participated in the Office Evaluation Program. This program involves experienced AUSA traveling to other district offices to evaluate whether the office is following Department of Justice protocols. In 2010 I participated in the evaluation of the United States Attorney's Office for the District of Connecticut and the United States Attorney's Office for the Eastern District of Texas.

Since 2012, I have also been a representative for the U.S. Attorney's Office on the Re-entry Court for the United States District Court for the Western

District, Southern Division. This program is designed to assist persons being released after serving a federal prison sentence obtain job and social skills to successfully reintegrate in society.

(b) Describe any non-legal experience that you believe may be relevant to the commission's decision.

I have been a part-time instructor in the areas of criminal law, U.S. government and U.S. history at Drury University, Baptist Bible College, and Maple Wood Community College. In these cases I have had the opportunity to teach and discuss Missouri criminal law and aspects of the Missouri Non-Partisan plan for the selection of judges.

12. List all bar associations and other professional societies of which you are a member, with any offices held and dates.

Missouri Bar: 1991 to present

United States Court of Appeals: 1991 to present

Association of Government Attorneys in Capital Litigation: 2014

13. (a) List any professional articles or books authored by you that have been published or any special recognition or award of a professional nature you have received.

1. Publications:

Author, Criminal Appeals and Post-Conviction Remedies, Missouri Appellate Court Practice (MoBar 5th ed. 2002 and supplements)

Author, Appeals, Missouri Criminal Practice (MoBar 4th ed. 2005 and supplements)

Author, Statements of Defendant, Missouri Criminal Practice (MoBar 4th ed. 2005 and supplements)

Note, Coauthor "Of Winks and Nods," Webster's Uncertain Effect on Current and Future Abortion Legislation, 55 Mo.L.Rev. 163 (1990)(the section which I drafted, the general overview of abortion laws, has been cited favorably in several books involving reproductive rights. See Intended Consequences: Birth Control, Abortion, and the Federal Government in Modern America: Birth Control, Abortion, and the Federal Government in Modern America, Donald T. Critchlow (Oxford University Press, 1999), p. 292, fn. 120.)

2. Awards:

2012 Certificate of Appreciation, United States Postal Service, January 24, 2012, for prosecution of Derrick Haggard/Lisa Strait mail theft organization

2004 Award, Outstanding Cooperation and Performance in Law Enforcement, Mid States Organized Crime Information Center (MOCIC), 24th Annual Conference, Sioux Falls, South Dakota, September 16, 2004

2002 Outstanding Prosecutor for the Midwest Region (Nebraska, Iowa, Kansas, South Dakota, Missouri, North Dakota), the White House Drug Policy Office High Intensity Drug Trafficking Area (HIDTA) program, November 19, 2002

2000 Meritorious Achievement Award, West Central Organized Crime Drug Enforcement Task Force, May 3, 2000, for prosecution of case "Operation Crystal Claus"

1999 Meritorious Achievement Award, West Central Organized Crime Drug Enforcement Task Force, April 1, 1999, for prosecution of case "Operation Triple Threat"

(b) List any other articles, reports, letters to the editor, editorial pieces, or other material authored by you that have been published within the last five (5) years.

Author, *America's Sermon: A Profile of Lincoln's Second Inaugural Address*, Baptist Bible Tribune, February 2009 (Copy attached at Attachment C. The article was edited for length and reviewed for grammar and typographical errors by the magazine editor, Keith Bassham, but is completely my work)

14. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations in which you have significantly participated. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Member, Board of Trustees, Baptist Bible College, Springfield, Missouri, 2010-2013

Member, Rogersville, Missouri, Planning and Zoning Board, 2005-06

President, Leabrooke Homeowners Association, Rogersville, Missouri, 2005-06

Winner, Distinguished President Award, Springfield Southside Kiwanis Club, 2005

President, Springfield Southside Kiwanis Club, 2003-04

Member, Springfield Southside Kiwanis Club, 1998-Present
Chairman, Greene County Historical Sites Board, 2001-02
Member, Greene County Historical Sites Board, 2000-02
Member, Park Hill School District School Board, Kansas City, Missouri, 1997
Member, Park Hill Community Drug Task Force, 1995-97
Member and President of Platte County Optimist Club, Platte County, Missouri, 1995-97
Member, Platte County, Missouri, Historical Society, 1995-97

15. Do you now hold or have you ever held an elective or an appointive public office or position? If yes, provide details. Yes.

Member, Rogersville, Missouri, Planning and Zoning Board, 2005-06
Member, Park Hill School District School Board, Kansas City, Missouri, 1997
(I resigned in order to take the appointment with the United States Attorney's Office in Springfield.)

16. Please list any client(s) or organization(s) for which you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organization(s).

N/A

17. Provide the branches and dates of (a) military service or (b) other public service not otherwise disclosed in this application. If discharged from the military, state whether the discharge was other than honorable.

N/A

18. State whether you are able, with or without a reasonable accommodation, to perform the essential functions of being a trial judge.

I am able to perform the essential functions of being a trial judge.

19. Were you ever refused admission to the bar of Missouri or the bar of another state or the federal courts? If yes, provide details.

No

20. Have you ever been disciplined, admonished or cited for breach of ethics or professional conduct by the Supreme Court of Missouri or by any court or bar association or committee thereof? If yes, provide details.

No

21. If you are or were a member of the judiciary of the State of Missouri, please state:

- a) Whether an order of discipline ever has been entered against you by the Supreme Court of Missouri for breach of the Code of Judicial Conduct or the Canons of Judicial Conduct. If yes, provide details.

N/A

- b) Whether a reprimand or admonition ever has been entered against you by the Commission on Retirement, Removal and Discipline for any of the causes specified in Supreme Court Rule 12.07. If yes, provide details.

N/A

22. Have you have ever been held in contempt of court? If yes, provide details.

N/A

22. Have you ever been sued by a client or been a party to any other litigation, other than as guardian ad litem, plaintiff ad litem, or defendant ad litem?

Yes

If your answer is yes, state the style of the case, where it was filed, and explain in detail. If you are a judge and you have been sued in your judicial capacity, list only those cases where you are or were other than a nominal party.

Eggert v. Eggert, Separation Proceedings, Platte County, Missouri, November 1995

23. Have you ever been convicted or received a suspended imposition of sentence for a felony or misdemeanor in state, federal or military court? (*Note that this question does not require that traffic offenses or other infractions be listed.*)

No

If your answer is yes, state the style of the case, where it was filed, and explain in detail.

24. Are you delinquent in the payment of any federal, state, county or city taxes? If yes, provide details.

No

25. You must attach to this application one writing sample of your choice. The only rule, limitation or instruction is that you must indicate whether it was edited by anyone else, and if so, to what degree.

Attached as Attachment B is a response filed by the United States on March 7, 2014, to a motion to suppress evidence and dismiss an indictment in *United States v. Vetrano*, 13-03123-CR-MDH. The document was reviewed by Assistant United States Attorney Cindy Hyde for typographical and grammatical errors, but in every respect is 100% my work product.

26. List/describe any additional honors or awards you have received, activities you have performed, or any other information not set out above that demonstrates the quality of your work as an attorney or that you otherwise believe is relevant to the commission's decision.

I am thankful that my life turned in such a way that I could even seek such a privilege as to be a Judge. I was the first in my family to graduate college, get a graduate degree and then graduate from law school and become a lawyer. To rise up from the station one is born into and to have better opportunities than the generation before you is a uniquely American story, and it is a truth that I will not forget. The sacrifice of many people made my life possible for me and gives me perspective on how one should live the life they have been so given.

I am also thankful for the opportunity I have had to work in public service for the past 17 years as a prosecutor on both the state and federal level. As a prosecutor, I have never believed that a criminal investigation was about winning or losing, but instead was about seeking a just result within the parameters set down by the law. I respect the role that the criminal defense bar has in the administration of justice, and believe that I have excellent relationship with the vast majority of the criminal defense bar. Two of my legal references are criminal defense attorneys who can speak better than I on that reputation. I have had the privilege to work under excellent judges, who have, in my experience, treated all who came into the courtroom with courtesy, fairness and respect. This experience gives me the perspective to model the same kind of courtesy, fairness and respect to all persons who come before the court.

I believe that I have the work ethic to be a judge. Over the course of my 17 years as a federal or state prosecutor I have tried as either the lead or co-counsel, over 35 jury trials, including two capital murder cases. I have prosecuted to completion over 300 defendants, participating in both plea and sentencing hearings for each defendant convicted. I have participated in over 50 hearings involving motions seeking to suppress evidence and have

responded to numerous motions from defendants seeking release from confinement. I have never refused a difficult project and have volunteered on numerous occasions within my office to perform needed work, which can be attested to by Tammy Dickinson, the United States Attorney for the Western District of Missouri who one of my references, and my immediate supervisor in Springfield, Mike Oliver.

I believe that I can do the job of Associate Circuit Court Judge. The reason why I want to do the job is my desire to be a productive and useful part of the community in which I live. I am extremely fortunate to work in Springfield, the place where I went to college for 5 years and the area where I have lived and worked for the past 17 years. I have a great wife and two wonderful children. I feel that I am a productive part of the office in which I work, have great colleagues whom I respect, and take real satisfaction in the work I do. I could continue to do the job, without complaint, happily until retirement. But I believe that my experience as an Assistant United States Attorney has prepared me for the position of Associate Circuit Court Judge, and it is my hope that I would be given the honor of serving my community in this important role.

Thank you for your time and consideration and I hope to be able to meet each of you in person to discuss my application.