

LAW OFFICE OF
Richard B. Fields
THE WRIGHT CARRIAGE HOUSE
688 Jefferson Ave
Memphis, TN 38105-4936

Mailing Address:
Front Street Station
P.O. Box 3096
Memphis, TN 38173-0096

Telephone: (901) 543-4299
Facsimile: (901) 527-1166
Email: fieldsrb@bellsouth.net

Mr. Charles F. Newman, Esq.
Burch, Porter & Johnson (Corrected 10:30 a.m., July 13, 2006)
130 N. Court Avenue
Memphis, TN 38103

Re: Judicial Races in Shelby County

Dear Charles:

This letter is addressed to you although it is being sent to all three thousand attorneys in Shelby County. Recently, an article in the Commercial Appeal reminded me of your heroic struggle to save Overton Park against enormous odds. You have always been my hero, and I also remember Mr. Lucius Burch's kind words when the NAACP and a group of lawyers, one of whom I was fortunate to be, were fighting over a period of nine years to free three innocent young black men from Marked Tree, Arkansas, who were wrongly convicted of murder. You and Mr. Burch made me proud to be an attorney.

This letter is to all the attorneys in Shelby County and is meant to encourage them to become involved in the current judicial elections. Unlike judicial candidates who must fill out extensive questionnaires when they appear before the Tennessee Judicial Selection Commission for appellate judges and interim appointments when a judge does not complete his or her term, there is no in-depth screening of the judicial candidates in the 40 races for general sessions, circuit, chancery, probate, and juvenile court positions. What I have attempted to do is review public records to provide background information that voters need to know about candidates, particularly those who have no judicial record. I also utilized my 30 years of experience in all of these courts, keeping in mind the Tennessee Rules of Professional Conduct 8.2 governing all attorneys, which states as follows:

Tennessee Rules of Professional Conduct
Rule 8.2
Judicial and Legal Officials

- (a) a lawyer shall not make a statement that the lawyer knows to be false or that is made with reckless disregard as to its truth or

falsity concerning the qualifications or integrity of the following persons:

- (1) a judge;
 - (2) an adjudicatory officer or public legal officer; or
 - (3) a candidate for election or appointment to judicial or legal office
- (b) a lawyer who is a candidate for judicial officer shall comply with the applicable provisions of the Code of Judicial Conduct.

And in the comments to this Rule, lawyers are encouraged to express “honest and candid opinions” about the professional and personal fitness of persons being considered for election or appointment to judicial office and to the public legal offices, such as the attorney general, as these opinions from lawyers contributes to “improving the administration of justice.”

Now we could take the position of Senator Roman Hruska (R. Neb.) when he defended Richard Nixon’s nomination of G. Howard Carswell to the U.S. Supreme Court in 1970:

Even if he [Carswell] is mediocre, there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren't they, and a little chance? We can't have all Brandeises and Cardozos and Frankfurters and stuff like that there

(Fortunately, Judge Carswell’s nomination was rejected 51– 45 by the U.S. Senate, when, among other problems, it was revealed that he assisted in re-segregating a private country club in Georgia)

I prefer to follow the eloquent words of U.S. Senator Barak Obama (D. Ill.) who is electrifying people throughout the country with his intelligence and common sense. The first black editor of the Harvard Law Review, he turned down a U.S. Supreme Court clerkship and returned to Chicago where he practiced poverty law. He won 80% of the vote in Illinois when elected to the U.S. Senate, and his strong admirers (besides obviously the citizens of Illinois) include Warren Buffett and Bill Gates. His words are eloquent and incisive:

Now, the test for a qualified judicial nominee is not simply whether they are intelligent. Some of us who attended law school or are in business know there are a lot of real smart people out there whom you would not put in charge of stuff. The test of whether a judge is qualified to be a judge is not their intelligence. It is their judgment.

The test of a qualified judicial nominee is also not whether that person has their own political views. Every jurist surely does. The test is whether he or she can effectively subordinate their views in order to decide each case on the facts and the merits alone. That is what keeps our judiciary independent in America. This is what our founders intended.

Today, at a time when American families are facing more risk and greater insecurity than they have in recent history, at a time when they have fewer resources and a weaker safety net to protect them against those insecurities, people of all backgrounds in America want a nation where we share life's risks and rewards with each other. And when they make laws that will spread this opportunity to all who are willing to work for it, they expect our judges to uphold those laws, not tear them down because of their political predilections. Republicans, Democrats, or anyone in between. Those are the types of judges the American people deserve.

[Remarks of U.S. Senator Barack Obama and the nomination of Justice Janice Rogers Brown as delivered in the chambers of the U.S. Senate, Wednesday, June 8, 2005. For complete remarks, see www.barackobama.com]

It is important that the judicial elections process does not become bogged down in partisan politics or racial polarization. Certainly we do not have enough black lawyers in our major firms and the bar must provide more opportunities for black law school graduates to be recruited, hired, and trained to practice in all areas of the law. But we cannot allow clearly unqualified judicial candidates, black or white, to escape scrutiny. The public must know the facts, and we as attorneys must publicly express our “honest and candid opinions” to improve the administration of justice.

The following is a list of persons I think are most qualified for the judicial positions. I also include endorsements for Sheriff and District Attorney General, because they are such an important part of our justice system. Of the 40 judicial endorsements, 23 are white, 17 are black, 14 are female, and 26 male. Of the contested races, 11 are black, 8 are white, 8 are female, and 11 are male. The races with a seriously unqualified opposition candidate are marked by an asterisk and are discussed in detail below.

2006 Endorsements

General Sessions, Civil Division

- 1 Judge Lynn Cobb (unopposed)
- 2 Judge Phyllis Gardner (unopposed)
- 3 Judge John A. Donald
- 4 Deborah M. Henderson
- 5 Judge Betty T. Moore
- 6 Judge Lonnie Thompson (unopposed)

General Session, Criminal Division

- 7 Judge Ann Pugh
- 8 Judge Tim Dwyer (unopposed)
- 9 Judge Joyce Broffitt (unopposed)
- 10 Judge Anthony Johnson (unopposed)
- 11 Judge Michelle Best
- 12 Judge Gwen Rooks
- 13 Judge Louis J. Montesi, Jr. ***
- 14 Judge Larry Potter (unopposed)
- 15 Judge Loyce Lambert Ryan (unopposed)

Circuit Court Division

- 1 Judge John R. McCaroll, Jr. (unopposed)
- 2 Judge James F. Russell***
- 3 Judge Karen Williams V
- 4 Judge Rita L. Stotts (unopposed)
- 5 Judge Kay Robillo (unopposed)
- 6 Judge Jerry Stokes ***
- 7 Judge Donna M. Fields (unopposed)
- 8 Judge D'Army Bailey
- 9 Judge Robert L. Childers (unopposed)

Criminal Court Division

- 1 Judge Paula Skahan ***
- 2 Judge W. Otis Higgs, Jr. (unopposed)
- 3 Judge John P. Colton (unopposed)
- 4 Judge Carolyn Blackett
- 5 Jim Lammey ***
- 6 LaTonya Burrow
- 7 Lee V. Coffee
- 8 Judge Chris Craft (unopposed)
- 9 Judge W. Mark Ward***

10 Judge James Beasley (unopposed)

Probate Court Division

1 Judge Robert Benham (unopposed)

2 **Judge Donn Southern***

Chancery Court Division

1 Chancellor Walter Evans (unopposed)

2 **Chancellor Arnold Goldin***

3 **Kenny Armstrong***

Juvenile Court

Curtis Person

Sheriff

Mark Luttrell*

District Attorney

Bill Gibbons*

**DETAILED ANALYSES
OF CONTESTED RACES WHERE
THERE IS AN UNQUALIFIED OPPONENT**

1. General Sessions, Criminal Division 13:

Judge Louis J. Montesi, Jr. is one of our most respected jurists in Shelby County. He has served as prosecutor and judge for over 30 years. He has developed court rules for interpreters in the courts of Tennessee and is involved in coaching youth athletic activities. He has decided tens of thousands of criminal cases over the past 16 years in a fair and thoughtful manner. His opponent, Terrance Tatum, is an assistant public defender who has been in that position for only five years. Compared to Judge Montesi he lacks the experience and professional recognition Judge Montesi has achieved. Mr. Tatum's candidacy is premature.

2. Circuit Court, Division 2:

Judge James F. Russell has been a Circuit Judge since 1996. His 9 years as a judge and his experience in private practice for 26 years has resulted in his ability to run a fair and efficient courtroom with respect and collegiality. He is exceptionally gracious to all parties.

Judge Russell was rated the best overall Judge in Circuit Court (Memphis Bar Association 2005 Survey) and received the 2002, "Judge Charles A. Rond Judge of the Year Award." He served as President of the Memphis Bar Association in 1992 and is a member of the Special Judicial Ethics Committee appointed by the Tennessee Supreme Court.

Unfortunately, his opponent Curtis D. Johnson, Jr., may be the most unqualified candidate in all the judicial races. Mr. Johnson has received two public censures by the Tennessee Board of Professional Responsibility in 2001 and 2004 for mishandling client matters. He has a series of judgments and pending cases against him in general sessions court for court reporter bills, expert witness fees, and a personal injury case. He also was sued in Chancery Court for paternity and child support where it was alleged that he withdrew all financial support when the mother, a client, would not terminate the pregnancy. He currently has a \$13,000 judgment for back child support with a contempt aspect still pending. He filed for bankruptcy in 1998. Mr. Johnson clearly does not have the qualifications to be a judge, much less a practicing attorney.

3. Circuit Court, Division 6:

Judge Jerry Stokes has an extensive trial record as an attorney for 25 years. He is diligent, thoughtful, and scholarly. In 2005 he was appointed by Governor Bredesen to the Circuit Court where he has been praised by attorneys and clients

for his judicial demeanor. He also serves as co-chair of SCALES (Supreme Court Advancing Legal Education in Schools) Project.

His opponent, Lawrence W. Pivnick, has been a law professor since 1976. He has not practiced courtroom law in 30 years. Although he authored a book on Tennessee Circuit Court Practice, the co-author was Tim Schaeffer who was an experienced trial attorney. Professor Pivnick does not have the courtroom experience to be a Circuit Judge.

4. Criminal Court, Division 1:

Judge Paula Skahan was appointed by Governor Bredesen as Criminal Court Judge in 2005 after serving as a public defender, assistant district attorney, and in private practice as a criminal defense attorney. She has handled capital cases as a private attorney as well as over 25 felony jury trials and thousands of other cases in her 19 years of practice. She is supported by law enforcement officer associations as well as defense attorneys and prosecutors. She has received national recognition as the recipient of the “Spotlight Award” from the National Association of Women Judges.

Her opponent, Tonya C. Saafir, is completely unqualified to be a criminal court judge. She has practiced law for only 2 ½ years with virtually no criminal jury trial experience. She filed bankruptcy in 1998. In 2004 she was sued in General Sessions Court for non payment of debts, yet on November 28, 2005, she purchased a 2006 Cadillac Escalade, and no lien is recorded with the state against this vehicle. On April 8, 2003, she filed a Uniform Civil Affidavit of Indigence in her divorce complaint.

5. Criminal Court, Division 5:

Jim Lammey has served as an Assistant District Attorney for 15 years. He has served in the Major Violators Unit and the Violent Crimes Prosecution Unit. His primary responsibility is the prosecution of homicides. He is well respected by defense attorneys as well as colleagues in the District Attorney’s Office.

Dewun R. Settle is his opponent and he has serious problems. In 2000, Mr. Settle received a public censure from the Tennessee Board of Professional Responsibility where he neglected his client’s legal matter and failed to file a brief in the Court of Criminal Appeals and was found in willful contempt of court. He also is involved in current litigation with his ex-partners, including Curtis Johnson, for debts of their former law firm. He also has a \$9,000 judgment against him in 1998 for legal malpractice involving a personal injury case.

6. Criminal Court, Division 9:

Judge Mark Ward is an exceptional judge and person. Appointed to his position in 2005, he was rated by the Memphis Bar Association in the survey of its members as the best judge in Shelby County and was selected “Judge of the Year” for 2005. This is significant as most members of the Memphis Bar Association are civil practice lawyers. He has over 30 years experience in the criminal justice system as the assistant public defender, an Adjunct Professor of Law in Criminal Procedure at the School of Law-University of Memphis, a clerk on the Criminal Court of Appeals, and private criminal defense practice. He also is the author of the authoritative Tennessee Criminal Trial Practice. His education background includes a B.A. – Law Enforcement and M.A.’s in Criminal Justice and Religion.

His opponent, Alicia Howard, has virtually no criminal jury trial experience. Her last employment as an Assistant City Attorney involved no criminal work. After leaving the City Attorney’s Office, she filed a Chapter 7 bankruptcy in Jackson, Tennessee in 2000. Her 20 years of practice have been undistinguished and does not make her in any way fit to replace Judge Ward.

7. Probate Court, Division 2:

Judge Donn Southern has been a probate Judge 17 years and has received praise from the bar and citizens for his competency and fairness. Probate Court deals with estates from a shotgun house to businesses worth millions of dollars. It requires knowledge of tax laws, constant updates of legislative changes, and sensitivity to people who have lost their loved ones. Judge Southern’s 30 years of private practice in probate, estate planning, and real estate makes him eminently qualified to retain his position as his rulings over 17 years as judge are well-reasoned and fair. He has also served as President of the Memphis Bar Association.

His opponent, Karen D. Webster, has absolutely no qualifications to be a Probate Judge. She has had few cases in Probate Court and none of a complex nature. Her previous experience as a city prosecutor and county contract attorney did not involve probate matters. She simply is not qualified for such a specialized court as Probate Court.

8. Chancery Court, Division 2:

Chancellor Arnold B. Goldin is one of the finest Chancellors in the history of Shelby County. He was appointed in 2002 and elected to fill an unexpired term in 2004. He was voted Judge of the Year in 2004 by the Young Lawyers Division of the Memphis Bar Association and is past president of the Tennessee Trial Lawyers Association. He has also served as Honorary Chairman of the Committee to preserve the legacy of Dr. Benjamin L. Hooks. He is always well-prepared, fair to all parties, and his written opinions are timely and scholarly.

His opponent, Carlee McCullough, an Assistant City Attorney and Contract Compliance Officer for the City of Memphis, is the most dangerous judicial candidate on the ballot. Chancery Court is an important court for injunctive relief and particularly business disputes. Ms. McCullough has no trial experience in Chancery Court.

Ms. McCullough's personal and professional life have been marked with serious problems. Ms. McCullough was married to Scott Crawford, a former attorney who went to federal prison recently concerning his involvement with the Gangster Disciples. Before their divorce, Ms. McCullough and her husband operated the Ivy, the site of the former Justine's. It was a financial disaster and her investors lost all of their money. Ms. McCullough is liable for over \$50,000 in judgments which she is paying off at approximately \$400 per month.

Before returning to Memphis, Ms. McCullough was licensed in California, and her law license was suspended twice for non-payment of fees.

As the City of Memphis Contract Compliance Officer, Ms. McCullough has certified a business as a minority contractor that was in fact operated by white males. In 2004, American Medibanc was certified as a female business enterprise for an ambulance fee billing contract of over \$1 million per year, which in fact was being operated by two white males. It was recently determined that while Medibanc had the contract, it did not have the capacity to do electronic billings for all of its accounts, and the City of Memphis may have lost over \$2 million in untimely billings to Medicare and other insurances. Ms. McCullough has taken no action to recoup these funds.

She now seeks to award the ambulance fee collection contract to Affiliated Computer Services even though the services will be subcontracted to a firm in Philadelphia. This contract was protested in April of 2006, but the protest hearing has not yet been scheduled.

9. Chancery Court, Division 3:

Kenny Armstrong is currently the Clerk & Master of the Chancery Court. He was appointed to this position by the three Chancellors in 1997 and has served as a special Chancellor on many occasions. He is well-respected by attorneys, and his office is one of the most helpful for citizens seeking assistance. His 24 years of private practice and 10 years as Clerk and Master have made him an excellent choice for Chancellor.

His opponent, Karen Tyler, is another candidate who has virtually no experience in Chancery Court. Most of her 16 year career was spent with Memphis Area Legal Services. In her recent two years in private practice, she has filed only six cases in Chancery Court.

10. Sheriff

Sheriff Mark Luttrell certainly deserves to be re-elected if only for his achievements in making Shelby County Jail a humane and constitutionally operated penal facility. Under his watch, the prison gained state accreditation and dismissal from federal court supervision.

His opponent, Reginald French, is the most dangerous non-judicial candidate. He is a sexual harasser, perjurer, and unethical public official. Mr. French worked in Mayor Herenton's initial campaign in 1991 and was rewarded with the position of Director of the Mayor's Action Center in February 1992. In 1997, he was appointed to interim director of the Division of Public Services at a salary of \$89,000 per year. On August 8, 1997, his secretary, Ms. Mary F. Johnson, filed a sexual harassment complaint against Mr. French alleging that he asked her for sex. When she refused and reported his actions, she was terminated. Before a formal investigation could begin, Mr. French resigned. Ms. Johnson was reinstated with back pay and a promotion.

In 2000 Mr. French bought a majority interest in a computer consulting company for \$100,000 (although he never paid for it, it is the subject of a pending litigation in Chancery Court) even though he had no computer experience. In a fax dated October 29, 2002, from Carlee McCullough (see above) to Lillie Alford of the Uniform Certification Agency, Ms. McCullough asked for an expedited review of Reginald French's company to classify it as a minority business enterprise saying they had a contract on the table and they needed the classification immediately to validate the contract. Mr. French started receiving contracts through ACS (the City's information technology contractor) in July of 2003 and has received approximately \$1.5 million to date.

Mr. French also wore a wire for the FBI trying to implicate Mayor Herenton in an illegal contract deal Mr. French was trying to arrange with the former chief administrator for the Mayor of Atlanta. He wore the wire after his contact gave Mr. French and his wife funds to contribute to Mayor Herenton's campaign.

At this time, Mr. French is appointed to the Memphis Alcohol Commission, which he oversees the establishments that serve alcoholic beverages. He has accepted \$1,000 campaign contributions from Ralph Lunati and Charles Westerland, the owners of Platinum Plus and the former King of Clubs, respectively, the two largest strip clubs in Memphis.

Reginald French is a political hack and hopefully will be investigated by federal authorities.

11. District Attorney General:

Bill Gibbons is the current District Attorney General and should be re-elected. He has made a special effort to go out into the community and meet with citizens about crime problems. He has worked with both mayors and the Sheriff and Police Director to coordinate crime-fighting activities. And he is working on a transition of old and new prosecutors to streamline the work of his office.

His opponent, Gail O. Mathes, has serious personal financial problems and a history of legal malpractice. She filed for Chapter 11 bankruptcy on April 20, 2005. Although many of her debts were joint debts with her ex-husband, she remains in bankruptcy status.

In 1997, her insurance company paid \$125,000 in malpractice action against her. And in 2005, she was again sued for malpractice where the plaintiff is seeking \$190,000 in compensatory damages and \$250,000 in punitive damages.

I personally like Gail, but she needs to get her personal and professional life together, and at this point in her career she certainly should not be our chief prosecutor.

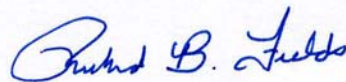
I suggest that each attorney receiving this letter contact at least 10 friends, relatives, or clients and give them your endorsements for the 19 contested judicial races and the offices of Sheriff and District Attorney General. With a few exceptions, my list is consistent with the Republican and Democratic Party Judicial Endorsement Committee's for the 19 contested races. Judicial races should not be partisan, and hopefully by the next election the political parties can end endorsements.

It is incumbent for the members of our profession to get information about judicial candidates to the public so they can make an educated choice.

Remember, early voting starts on July 14, 2006 and Election Day is August 3, 2006. It is a long ballot, so encourage people to early vote and take their time.

Thank you Mr. Burch.

Very truly yours,

A handwritten signature in blue ink that reads "Richard B. Fields". The signature is written in a cursive style with a blue ink stamp behind it.

Richard B. Fields

