

**APPLICATION FOR
DISTRICT COURT JUDGESHIP**

A. PERSONAL INFORMATION

1. Full name. John A. Mercer
2. Birthdate [REDACTED]
3. Current home address. [REDACTED]
4. Email address. [REDACTED]
5. Preferred phone number. [REDACTED]
6. Judicial position you are applying for. District Judge, 20th Judicial District, Dept 2
7. Date you became a U.S. citizen, if different than birthdate. N/A
8. Date you become a Montana resident. [REDACTED]

B. EDUCATIONAL BACKGROUND

9. List the names and location (city, state) of schools attended beginning with high school, and the date and type of degree you received.

Polson High School, Polson, Montana graduated 1975

University of Montana, Missoula, Montana graduated 1979, BA in Business Administration

Northwestern University, Chicago, Illinois, graduated 1982, JD

10. List any significant academic and extracurricular activities, scholarships, awards, or other recognition you received from each college and law school you attended.

Graduated University of Montana with High Honors

Articles Editor, Northwestern Journal of International Law & Business

C. LEGAL AND PROFESSIONAL EXPERIENCE

11. In chronological order (beginning with most recent), state each position you have held since your graduation from law school. Include the dates, names and addresses of law firms,

businesses, or governmental agencies with which you have been affiliated, and your position. Include the dates of any periods of self-employment and the name and address of your office.

May 13, 2024 to January 5, 2025, District Court Judge, Department 2, Lake and Sanders County, Montana. 106 Fourth Ave E, Polson, MT 59860

1982 to May 12, 2024, attorney, Turnage Mercer & Wall, 312 1st St E, Polson, Montana, in numerous former names: Turnage & Mercer; Turnage O'Neill & Mercer; French, Mercer, Grainey & O'Neill; French, Mercer, Grainey & Duckworth; Turnage McNeil & Mercer; and Turnage & McNeil. All that same location. I have been at the same law office for 42 years.

Part time for Heritage Management Co, President from 2002 to 2021, when I retired from that business. No ownership interest at any time. I worked out of the law office located 312 1st St E, Polson, MT 59860.

Worked remotely as part time salaried in-house counsel from 2004 to 2007 for Sky Research, Ashland, Oregon, when Heritage Management Co had an ownership interest in Sky Research. I worked out of the law office located 312 1st St E, Polson, MT 59860.

12. In chronological order (beginning with most recent), list your admissions to state and federal courts, state bar associations, and administrative bodies having special admission requirements and the date of admission. If any of your admissions have terminated, indicate the date and reason for termination.

Oregon Supreme Court, limited in house counsel admission, November 3, 2004, terminated December 31, 2007, when my remote part-time in-house counsel work for Sky Research, Ashland, Oregon ended.

United States Ninth Circuit Court of Appeals, admitted February 13, 2001

United States Supreme Court, admitted November 4, 1985

United States District Court, Montana, admitted October 7, 1982

Montana Supreme Court, admitted October 7, 1982

13. Describe your typical legal areas of concentration during the past ten years and the approximate percentage each constitutes of your total practice (i.e., real estate, water rights, civil litigation, criminal litigation, family law, trusts and estates, contract drafting, corporate law, employment law, alternative dispute resolution, etc).

40% Wills, Trusts & Estates

40% Real Estate

10% Property Litigation
10% Personal Injury/Medical Malpractice

14. Describe any unique aspects of your law practice, such as teaching, lobbying, serving as a mediator or arbitrator, etc. (exclude bar activities or public office).

I have served as a Mediator, including on a Supreme Court case.

15. Describe the extent that your legal practice during the past ten years has included participation and appearances in state and federal court proceedings, administrative proceedings, and arbitration proceedings.

Court appearances have consisted of Law & Motion; Summary Judgment Hearings; and the Medical Legal Panel. A small portion of my practice.

16. If you have appeared before the Montana Supreme Court within the last ten years (including submission of amicus briefs), state the citation for a reported case and the case number and caption for any unreported cases.

I have not.

17. Describe three of the most important, challenging, or complex legal issues you have dealt with or legal proceedings in which you have participated during your practice.

- A. When I was first an attorney I was appointed as a public defender for a defendant charged with the unlawful sale of dangerous drugs. On the eve of trial, I was presented with evidence that showed my client had altered time records attempting to establish an alibi. This thrust me into the conflict between representing my client and preventing fraud on the Court. While jurors were waiting in the hallway to begin jury selection, I reminded the Court that it had not ruled on my Motion for Speedy Trial. It was granted and my angst receded, but it is burned into my memory.
- B. A single engine aircraft with the pilot and a passenger crashed into the east side of the Swan Range killing them both. The pilot, who had flown for Frontier, was very experienced and careful. It just didn't make sense. We filed our case in Federal Court and argued that the altimeter had stuck misleading the pilot. This involved a great deal of complex and challenging research and thinking.
- C. A husband and wife placed their lake property in an irrevocable trust. Despite their subsequent death and a directive that the trust be distributed to their children, that never occurred. Many years elapsed and all but one of the children also died. Finally, some of those who remained filed a lawsuit to partition or force a sale of the property. I was appointed by the Court as Successor Trustee and worked through numerous conflicting personalities, complex income tax issues, shared well and

access disputes with the neighbor, and finally a sale of the property and division of the proceeds.

18. If you have authored and published any legal books or articles, provide the name of the article or book, and a citation or publication information.

None.

19. If you have taught on legal issues at postsecondary educational institutions or continuing legal education seminars during the past ten years, provide the title of the presentation, date, and group to which you spoke.

Not in the last 10 years.

20. Describe your pro bono services and the number of pro bono hours of service you have reported to the Montana Bar Association for each of the past five years.

2023 - 82 hours

2022 - 57 hours

Prior years would be similar, but I do not have those records. Having practiced in Lake & Sanders Counties my entire career I have worked with numerous charitable organizations pro bono, and every year for 42 years, including that portion of 2024 prior to appointment to the Bench, helped citizens on a pro bono basis, with real estate, probate, wills, trusts, family law, guardianships, conservatorships, business law, transfer of motor vehicles, traffic tickets, and all forms of counseling ranging from criminal charges to neighbor disputes.

21. Describe dates and titles of any offices, committee membership, or other positions of responsibility you have had in the Montana State Bar, other state bars, or other legal professional societies of which you have been a member and the dates of your involvement. These activities are limited to matters related to the legal profession.

None, but in 1995 I did receive the Distinguished Service Award from the State Bar of Montana for service in the Montana Legislature.

22. Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, and type of discharge received.

None.

23. If you have had prior judicial or quasi-judicial experience, describe the position, dates, and approximate number and nature of cases you have handled.

From May 13, 2024 to January 5, 2025, I was appointed to complete the remaining term of Deborah Kim Christopher as District Court Judge, Department 2, Lake and Sanders County, Montana. 106 Fourth Ave E, Polson, MT 59860. Everything from Criminal Jury Trials and hearings, abuse and neglect cases, mental commitments to family law issues of all kinds and other civil matters from easements to estates.

While serving on the Montana Board of Regents and Polson School Board I participated as the adjudicating authority during appeals to those Boards, usually either personnel in nature, or by students for various grievances or issues. I have also served several times on the Montana Medical Legal Panel.

24. Describe any additional business, agricultural, occupational, or professional experience (other than legal) that could assist you in serving as a judge.

When I worked part time with Heritage Management Co I was exposed to property management, as it owned the Polson Post Office, did property development and private lending.

D. COMMUNITY AND PUBLIC SERVICE

25. List any civic, charitable, or professional organizations, other than bar associations and legal professional societies, of which you have been a member, officer, or director during the last ten years. State the title and date of any office that you have held in each organization and briefly describe your activities in the organization and include any honors, awards or recognition you have received.

Greater Polson Community Foundation, Director 2008 to present.

Polson Scholarship & Education Foundation, Director 2002 to present.

26. List chronologically (beginning with the most recent) any public offices you have held, including the terms of service and whether such positions were elected or appointed. Also state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

District Court Judge, appointed May 13, 2024 to January 5, 2025

Polson School Board, elected 2021-2023

Montana University System 2-Year Restructuring Review Commission, appointed 2019 to 2020

Polson School Board, appointed 2007 to 2008

Montana Board of Regents, appointed 2001 to 2006 (Chairman 2004-2006)

Montana House of Representatives, elected 1984 to 2000 (Speaker 4 terms)

E. PROFESSIONAL CONDUCT AND ETHICS

27. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, provide the details.

No.

28. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, provide the details.

No.

29. Have you ever been arrested or convicted of a violation of any federal law, state law, or county or municipal law, regulation or ordinance? If so, provide the details. Do not include traffic violations unless they also included a jail sentence.

No.

30. Have you ever been found liable in any civil proceedings for damages or other legal or equitable relief, other than marriage dissolution proceedings? If so, provide the citation of a reported case or court and case number for any unreported case and the year the proceeding was initiated (if not included in the case number).

No.

31. Is there any circumstance or event in your personal or professional life that, if brought to the attention of the Governor or Montana Supreme Court, would affect adversely your qualifications to serve on the court for which you have applied? If so, provide the details.

No.

F. BUSINESS AND FINANCIAL INFORMATION

32. Are you currently an owner, officer, director, or otherwise engaged in the management of any business other than a law practice? If so, please provide the name and locations of the business and the nature of your affiliation, and state whether you intend to continue the affiliation if you are appointed as a judge.

No.

33. Have you timely filed appropriate tax returns and paid taxes reported thereon as required by federal, state, local and other government authorities? If not, please explain.

Yes.

34. Have you, your spouse, or any corporation or business entity of which you owned more than 25% ever filed under title 11 of the U.S. Bankruptcy Code? If so, give details.

No.

G. JUDICIAL PHILOSOPHY

35. State the reasons why you are seeking office as a district court judge.

With deep community roots, a lifetime of public service, and the encouragement of family and fellow citizens, I am putting my name forward to serve as District Court Judge for the 20th Judicial District, Dept. 2. I offer my demonstrated ability and unwavering commitment to the stability and efficiency of the court. I will strive to promote confidence and respect for the judicial system that the residents of Lake and Sanders County expect and deserve.

I only expected to complete the remaining eight months of Judge Christopher's term and then return to my law practice. Now, with the unusual circumstances resulting in a second unexpected vacancy, I consider it my duty to apply for this important position. On a personal level, I have found the judgeship to be challenging, educational, and fulfilling. I am willing to give up the private practice of law for service on the court. It would be my honor to receive this appointment and stand for election for the remainder of the term in November 2026.

36. What three qualities do you believe to be most important in a good district court judge?

Impartiality, timely rulings, and respect for the law and participants.

37. What is your philosophy regarding the interpretation and application of statutes and the Constitution?

The Constitution and statutes should be applied as written with deference to both their plain meaning and intended meaning. It is not the job of the Courts to write laws.

H. MISCELLANEOUS

38. Attach a writing sample authored entirely by you, not to exceed 20 pages. Acceptable samples include briefs, legal memoranda, legal opinions, and journal articles addressing legal topics.

Attached.

39. Please provide the names and contact information for three attorneys and/or judges (or a combination thereof) who are in a position to comment upon your abilities.

Matthew H. O'Neill
O'Neill & Bagley Law Offices, PLLC
402 1st St E, Ste 201
PO Box 699
Polson, MT 59860
406-883-5444
matt@polsonlaw.com

Clinton J. Fischer
Clinton J. Fischer Law Office, P.C.
PO Box 879
Polson, MT 59860
406-883-4395
office@missionmtnlaw.com

Daniel W. Hileman
Kaufman Vidal Hileman Ellingson, P.C.
22 Second Ave W, Ste 4000
Kalispell, MT 59901
406-755-5700
dwh@kvhlaw.com

CERTIFICATE OF APPLICANT

I hereby state that to the best of my knowledge the answers to all questions contained in my application are true. By submitting this application I am consenting to investigation and verification of any information listed in my application and I authorize a state bar association or any of its committees, any professional disciplinary office or committee, educational institutions I have attended, any references furnished by me, employers, business and professional associates, law enforcement agencies, all governmental agencies and instrumentalities and all other public or private agencies or persons maintaining records pertaining to my citizenship, residency, age, credit, taxes, education, employment, civil litigation, criminal litigation, law enforcement investigation, admission to the practice of law, service in the U. S. Armed Forces, or disciplinary history to release to the Office of the Governor of Montana or its agent(s) any information, files, records, or reports requested in connection with any consideration of me as a possible nominee for appointment to judicial office.

I further understand that the submission of this application expresses my willingness to accept appointment as District Court Judge if tendered by the Governor, and my willingness to abide by the Montana Code of Judicial Conduct and other applicable Montana laws (including the financial disclosure requirements of MCA § 2-2-106).

December 30, 2024
(Date)


(Signature of Applicant)

A signed original **and** an electronic copy of your application and writing sample must be submitted
by
5:00 p.m. on Monday, January 13, 2025

Mail the signed original to:

Hannah Slusser
Governor's Office
P.O. Box 200801
Helena, MT 59620-0801

Send the electronic copy to: hannah.slusser@mt.gov

1 HON JOHN A. MERCER
2 Lake County Courthouse
3 106 4th Ave. E.
4 Polson, MT 59860
5 (406) 883-7360

LYN FRICKER
CLERK OF DISTRICT COURT
FILED BY *M. Chapman*
2024 JUL 19 P 12:48

8 MONTANA TWENTIETH JUDICIAL DISTRICT COURT, LAKE COUNTY

9 IN RE THE GRANDPARENT-
10 GRANDCHILD VISITATION OF:

Cause No. DV 24-2023-117

11 A.L.U.,
12 SHARLINE BLUEMEL,
13 Petitioner,
14 and
15 ASHLEY UHRICH and VIJAY UHRICH,
16 Respondents.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

17 The above cause came before the Court because of the murder of Rozalyn Blumel, A.L.U.'s
18 mother, an act committed by the Respondents' son, Tyler Urich, A.L.U.'s father. The Respondents,
19 hereinafter "Uhrichs", the paternal grandparents of A.L.U., became the child's adoptive parents, and
20 thereupon halted all visitation between A.L.U. and her maternal grandmother, the Petitioner,
21 hereinafter "Sharline". This case is not one that questions the fitness of the Uhrichs as parents. The
22 Court finds that ample evidence supports that the Uhrichs are fit as parents. However, this case is
23 about respecting the constitutional rights of A.L.U., as a child, to maintain contact via limited
24 visitation with her maternal grandmother following the murder of the child's mother by the child's
25 father, son of her adoptive parents.
26

1 On June 28, 2024, the Court held a hearing on a Petition for Grandparent Visitation. Sharline
2 appeared personally and with her attorney, Kevin Ness. The Uhrichs, appeared personally and with
3 their attorney, Casey L. Emerson.

4 At the hearing in this matter, witnesses were sworn and testified, and exhibits were introduced.
5 After considering all evidence and pleadings, the Court enters the following:
6

7 FINDINGS OF FACT

- 8 1. Sharline is the maternal grandparent of A.L.U.
- 9 2. The Uhrichs are the paternal grandparents and adopted parents of A.L.U., a minor
10 child. A.L.U is four years old.
- 11 3. In 2018, Rozlyn Bluemel, Sharline's daughter, and Tyler Uhrich, the Uhrich's son,
12 began dating. A.L.U. was born on March 14, 2020, out of Rozlyn and Tyler's
13 relationship.
- 14 4. On May 10, 2022, Tyler murdered Rozlyn. Tyler pled guilty to deliberate homicide in
15 October 2022. In February 2023, he was sentenced to 80 years in the Montana State
16 Prison. Following his guilty plea, Tyler's parental rights were terminated.
- 17 5. Prior to Rozlyn's death, Sharline had frequent contact with A.L.U. Rozlyn would
18 bring A.L.U. to Sharlene's house in Ronan, Montana on a regular basis. Sharline's
19 other two daughters, Madison Bluemel and Elizabeth Bluemel, Rozlyn's sisters,
20 would usually be present for these visits. From all accounts the visits were age
21 appropriate, fun, and fostered a loving and caring environment for A.L.U.
- 22 6. Subsequent to Rozlyn's death and Tyler's incarceration, the State filed a Dependent
23 Neglect action involving A.L.U. The case was filed in Lake County District Court
24 under Cause No. DN-24-2022-1.
25
26

- 1 7. During the pendency of the Dependent Neglect matter, A.L.U. remained in the care
2 and custody of the Uhrichs. Child and Family Services facilitated unsupervised
3 visitations between A.L.U. and Sharline, where Sharline and her daughter Madison
4 engaged the child in age-appropriate play and provided A.L.U.'s physical needs by
5 feeding her when needed, providing clothing and toys, and sharing love and affection.
6
- 7 8. The Permanency Plan for A.L.U. was adoption. In June 2023, Uhrichs filed a Petition
8 for Adoption in the Montana Twentieth Judicial District Court, Lake County, Cause
9 No. DA-23-04. The adoption was finalized on June 15, 2023. Notice of the adoption
10 proceeding was not provided to Sharline and no such notice is required by law.
11
- 12 9. After the adoption was finalized, the Uhrichs immediately terminated Sharline's
13 visitation. Sharline has not seen A.L.U since June 2023.
14
- 15 10. Petitioner filed the above cause on June, 21, 2023. Petitioner wants a regular visitation
16 schedule with A.L.U.
17
- 18 11. There are no allegations the Uhrichs are unfit parents to A.L.U. Sharline
19 acknowledges she agreed to the Uhrichs as A.L.U.'s guardians and that they are best
20 suited to be her adoptive parents. The Court finds that the Uhrichs are fit parents.
21
- 22 12. The Uhrichs object to any contact between A.L.U. and Sharline. The basis for said
23 objection is that the Uhrichs allege A.L.U. experienced adverse health reactions when
24 forced to visit Sharline, that Sharline has a chemical dependency issue, that Sharline
25 has had a history with CFS, and that Rozlyn expressed a desire to others that she did
26 not want A.L.U. to have a relationship with Sharline.
13. No medical evidence was presented at the hearing to support the claim that A.L.U.'s
 gastrointestinal issues were related to contact with Sharline. No evidence was

1 provided that Sharline currently uses drugs or used drugs during visits with A.L.U.

2 14. The Court does take note of Sharline's past drug and alcohol use.

3 15. The Court finds that preventing Sharline from having a relationship with A.L.U. is not
4 in A.L.U.'s best interests. Where her mother was murdered by her adoptive parents'
5 son, her father now her stepbrother, it is important for A.L.U.'s well-being to preserve
6 a connection with her maternal grandmother.

7 16. Much of the testimony presented was unreliable hearsay, irrelevant as to alleged
8 conduct many years in the past, and based on obvious personal grudges that should
9 not be the basis to deny A.L.U. her constitutional right to visitation with her maternal
10 grandmother, Sharline, under the extraordinary facts of this case.

11 17. The Guardian Ad Litem, Marybeth M. Sampsel, appointed in this matter, in her
12 Confidential Report dated April 24, 2024 on file herein at page 17 found "...that some
13 minimal contact is likely in the child's best interest..." And also stated on page 17,
14 "Given the circumstances under which Rozlyn died, contact with maternal relatives is
15 one of the best ways [A.L.U.] can maintain some understanding of who her mother
16 was, what she was like, the things they have in common, and so forth." Based on the
17 testimony, the Court agrees.

18
19
20 From the foregoing Findings, the Court draws the following conclusions:

21 CONCLUSIONS OF LAW

- 22 1. That the Court has jurisdiction over this cause.
- 23 2. The Court determines there is clear and convincing evidence that some visitation
24 between A.L.U. and her maternal grandmother Sharline under the circumstances of
25 this case is in A.L.U.'s best interests and rebuts the presumption in favor of following
26

1 the desires of the adoptive parents, the Uhrichs.

2 3. The Montana State Legislature recognizes “ the Montana Constitution affords a child
3 the same fundamental rights as a parent, including, at a minimum, the inalienable right
4 to a clean and healthful environment, the right to pursue life’s basic necessities, the
5 right to enjoy a safe, healthy, and happy life, and the right to basic human dignity as
6 provided in Article II, sections 3, 4, and 15, of the Montana Constitution, and that in
7 appropriate circumstances, a parent’s rights should yield to the child’s...” 2019 Mt.
8 ALS 199 , 2019 Mt. Laws 199 , 2019 Mt. Ch. 199 , 2019 Mt. HB 347. The Court
9 determines that the facts of this case are such circumstances and further determines
10 that said Constitutional right extends beyond the statutory provisions provided by the
11 legislature, as the facts of this case could not have been contemplated.

12
13 4. The Court is not substituting its judgment for the judgment of the adoptive parents,
14 but rather is enforcing the constitutional rights of a child whose mother was murdered
15 under the unusual circumstances of this case.

16
17 5. That in recognition of the Uhrichs’ constitutional rights as parents, Sharlene’s
18 visitation should be limited and supervised.

19 From the forgoing Findings and Conclusions, the Court enters the following:

20 ORDER

21 It is HEREBY ORDERED that Petitioner’s Petition for Grandparent Visitation is HEREBY
22 GRANTED in part. The Court orders the parties to abide by the following Visitation Plan:

- 23
24 1. Sharline’s visitation with A.L.U. is restricted to supervised visitation. It is up to the
25 Uhrichs if they choose in the future to allow Sharline increased supervised visitations
26 and/or to have unsupervised visits.

- 1 2. Sharline shall have the option of exercising supervised visitation time with A.L.U. once
2 every two months on a mutually agreed upon date beginning September 2024 for a
3 period of up to four hours at an agreed upon location/provider and at her expense.
4
5 3. The parties may elect to use a neutral third party for communication in arrangements
6 for visitation. If the parties cannot mutually agree on a third party, then the parties shall
7 sign up and use Our Family Wizard (<https://www.ourfamilywizard.com/>) for
8 communication for visitation.
9
10 4. The parties shall notify each other in writing of any change in residence, telephone
11 numbers, or other relevant contact information.
12
13 5. The parties shall promote a healthy and beneficial relationship between the child and
14 both parties and will not demean or speak out negatively in any manner that would
15 damage the natural flow of love, affection, and caring between the parties and the child.
16 Furthermore, the parties shall refrain from and shall discourage third parties from
17 speaking negatively about the other parties in front of the child. The parties shall
18 encourage only positive or neutral comments in front of the child by third parties,
19 including other family members.
20
21 6. This limited Grandparent- Grandchild Visitation Plan is in the child's best interests and
22 respects the adoptive parents' parental rights.

23 DATED this 19th day of July 2024.

24 
25 Honorable John A. Mercer
26 DISTRICT COURT JUDGE

cc: 7/19/2024
Casey Emerson
Kevin Ness
jam