

PGCBA NewsJournal

Newsletter of the Prince George's County Bar Association, Inc.

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June 2015



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PRESIDENT'S MESSAGE



Colleagues,

“Accomplishment
will prove
to be a journey,
not a destination”
– Dwight D.
Eisenhower

I recall the day when I stood before the general membership of the PGCBA at Andrews Air Force Base and was accepted by the general body as a new member. I had received notice that I passed the bar, taken my oath the following month, and began my legal career at Alexander & Cleaver. Truth be told, at that moment I stood there because the partners of the firm, Gary and Jim, said it was a requirement of employment. I say to those partners today, thank you for making it a requirement. Membership has been a true journey. I quickly learned that the PGCBA was what its mission indicated it was: committed to serving its members and the community by promoting justice, professional excellence, collegiality and respect for the law.

With the support of Alexander & Cleaver, I had the pleasure of serving on many of the committees of the Association over the years, enjoyed member benefits, and experienced true collegiality from the bench and bar. I will admit that softball sometimes tested our collegiality.

Then, the next partner dictate came – it is not good enough to be a member,

you need to be on the Board, get on the Executive Board. So, I became a Board member and a few years later joined the Executive Board. In my Board capacities I had the pleasure of helping design the programs and policies of the Association to achieve its mission with many dedicated judges and attorneys. One success during this time personally for me was developing the annual auction in connection with the Holiday Party. The auction was created to obtain much needed funds for continuation of the community projects of the Association such as Mock Trial, Law Links, Adoption Day, Christmas in April. I do understand many of you don't want to take my calls because you know I

cont'd on next page...

NEXT BIG EVENT!

*J. Franklin Bourne Bar Association/
Prince George's County Bar
Association*

Golf Classic

**Tuesday, June 23, 2015
Lake Presidential Golf Course**

See page 30



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PGCBA NewsJournal

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...to represent the legal profession and to serve its members and the community by promoting justice, professional excellence, collegiality and respect for the law.

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Non-Member subscriptions \$75 per year.

Publication Deadline 10th of preceding month. Approved advertising accepted; rates submitted upon request. Statements or opinions expressed herein are those of the authors and do not necessarily reflect those of the Prince George's County Bar Association, its Officers, Board of Directors or the Editor. Publishing an advertisement does not imply endorsement of any product or service offered.

PRESIDENT'S MESSAGE, CON'T

am seeking contributions. My journey hasn't ended, I will continue to call until you answer as I have had the pleasure of observing the effects of the Association's community projects.

Of course, you can only assume the next partner dictate – be an officer, become President. This dictate could not have been met without all of you, the Members of the Association. Thank you for your trust and confidence in allowing me the privilege of serving as Secretary, Treasurer, President-Elect, and ultimately President. During this past year I hope you have enjoyed the bringing of legislative, political, and judicial perspectives to each of our general membership meetings with honored guests Chief Judge John Morrissey, Senate President

Thomas V. "Mike" Miller, Chairman Joseph Vallario, States Attorney Angela Alsobrooks, Council Chair Mel Franklin, and Maryland Attorney General Brian Frosh. As well, I hope you took advantage of the expanding professional excellence programs of the Association including the Brown Bag Lunches, Bench to Bar Series, Annual Seminars and case analysis and tips from the bench and practitioners in the NewsJournal. I am proud to say all programs of the Association continued this year and we saw the return of the Mentor Program, Christmas in April and the much anticipated Membership Directory. The successes of this year are a result of the Bar Staff, Executive Board, Board, Sponsors, and you, the Members. Thank you all for your efforts and dedication.

I hope you will be attending the Annual Membership meeting on June 9 at Newton White Mansion where we will say thank you to the Honorable Julia Weatherly, greet our newest District Court Judge, hear from the Clerk of the Circuit Court, Sydney Harrison, thank those that have provided distinguished service to the Association, and welcome the new President, the Honorable Joseph L. Wright, and the new leadership of the Association.

Presidency was not a destination, but an honor, and I look forward to my journey continuing with the Association.

Proud Member of the Association,

Denise

The McCammon Group is pleased to announce our newest Neutral



Hon. Martin P. Welch (Ret.)
Retired Chief Judge
Circuit Court for Baltimore City

The Honorable Martin P. Welch retired recently after more than twenty-one years of distinguished judicial service, including ten years as Judge in Charge of the Family Division and four years as Chief Judge of the Circuit Court for Baltimore City. Prior to his service on the bench, he spent twelve years in the Baltimore City Solicitor's Office, first in the Contracts and Tax, Pensions and Finance Sections and later in the Corporate Division. A leader in the community, he has served on the boards of numerous educational, charitable, and business organizations. Judge Welch now brings this distinct record of dedication and achievement to The McCammon Group to serve the mediation and arbitration needs of lawyers and litigants throughout Maryland and beyond.

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*"The PGCBA is glad to have
you as our new members!"*

Thank You!

To the Staff of the Prince
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Association for supplying
outstanding support to the
Members.

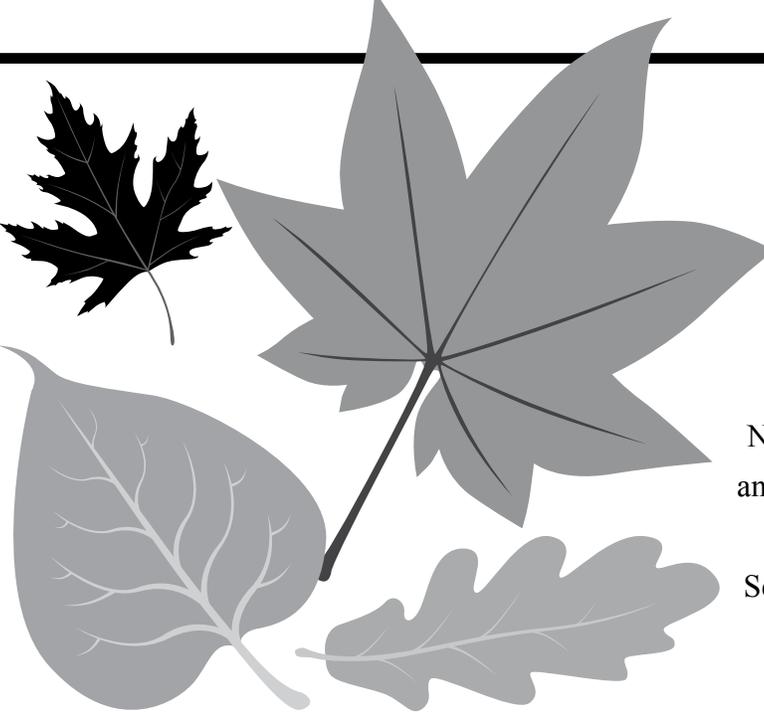
Have a Great Summer!

The Brown Bag Lunch and Bench to Bar will resume in September.
Watch for emails in August with Dates.

PGCBA NEWSJOURNAL PAPERLESS???

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Did you know that the *PGCBA NewsJournal* is available on our website at www.pgcba.com? In addition, if you wish to receive your NewsJournal via email in lieu of a paper copy, beginning in September 2015, please let us know at vpope@pgcba.com.



SEPTEMBER NEWSJOURNAL

The Prince George's County Bar Association NewsJournal does not run in the months of July and August. It too resumes in September. Please remember if you have anything to put in the September NewsJournal, it must be in our office by the 10th of August.

BROWN BAG LUNCH

MAY 7, 2015

“NO WRONG DOORS” – SERVICING VETERANS

Hosted by Judge C. Philip Nichols; Speakers: Frank Natale, Director Advocacy for Income Security, Maryland Legal Aid; Tracey Parker Warren, Veterans' Affairs; and Michael Stone, Homeless Persons Representation Project



Thank You!

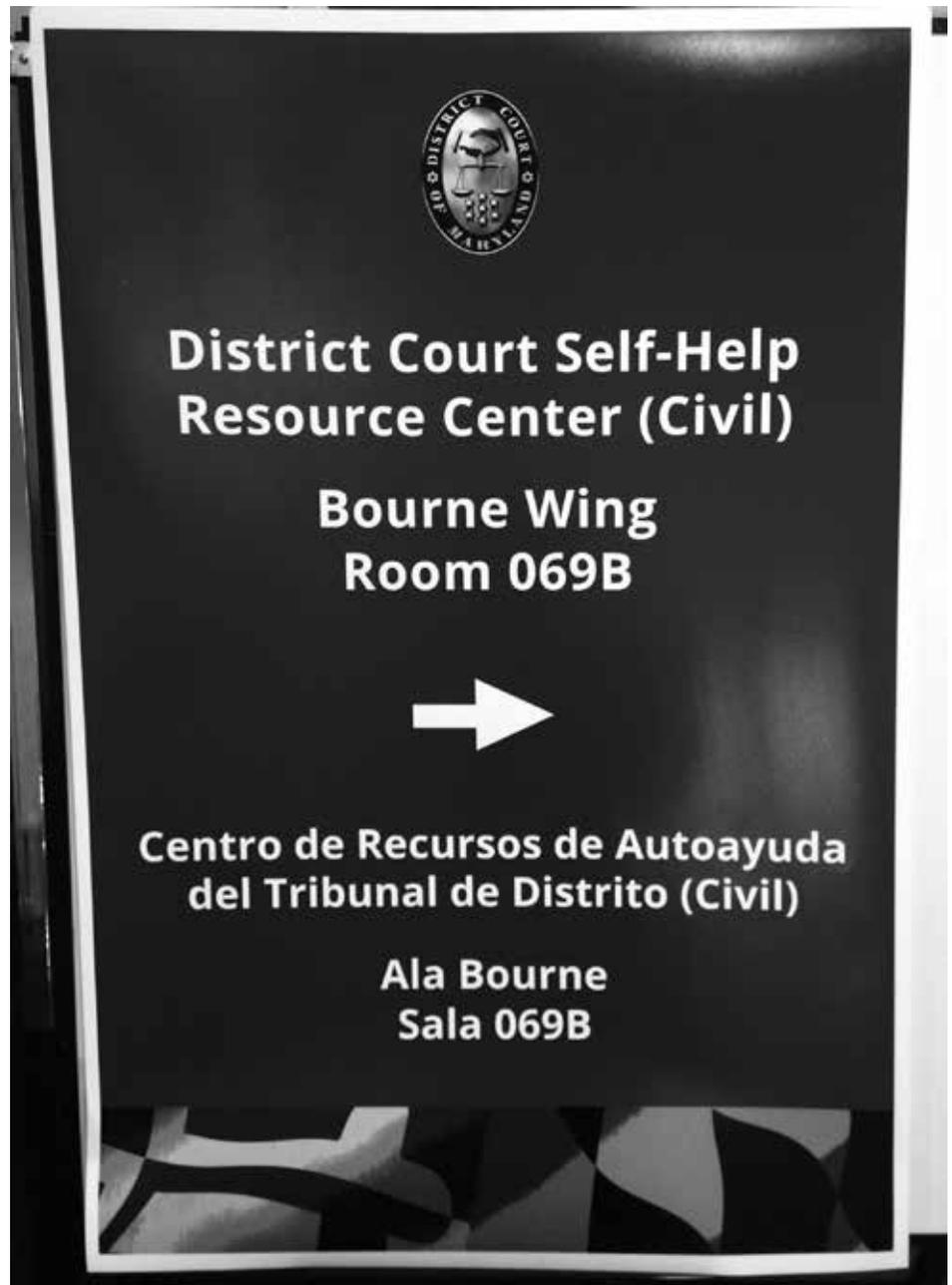
On behalf of Judge Nyce and Ben Rupert the Prince George's County Bar Association would like to thank all of the presenters who participated in the Brown Bag Lunch and Bench to Bar.

DISTRICT COURT SELF-HELP RESOURCE CENTER (DCSHRC) OPENS IN UPPER MARLBORO

On March 31, 2015, the District Court Self-Help Resource Center (DCSHRC) in Upper Marlboro opened to assist self-represented litigants in Prince George's County and neighboring counties. The Upper Marlboro DCSHRC is operated by attorneys and staff from Maryland Legal Aid, including a native Spanish-speaking attorney. The DCSHRC has assisted 443 self-represented litigants since opening.

Launched by the District Court of Maryland with assistance from the Maryland Access to Justice Commission as a pilot project, the first DCSHRC location opened in December 2009 in Glen Burnie. In 2011, the DCSHRC expanded from walk-in assistance to provide statewide assistance via telephone and live-chat. To date, over 91,000 self-represented litigants have been assisted through the DCSHRC walk-in, telephone and live chat services. A quarter of those served live in Prince George's County, which resulted in the opening of the additional DCSHRC location in Upper Marlboro to continue to fulfill the tremendous need for civil legal services.

Regardless of their income level, self-represented individuals with civil cases before the District Court of Maryland can visit the DCSHRC for advice or referrals for civil legal matters including landlord-tenant, small and large claims, replevin/detinue, and debt collection. The DCSHRC refers litigants for direct representation or additional advice to the private bar through the Prince George's County Bar Association's Lawyer Referral Service or local non-profits. Consultations with attorneys at the DCSHRC average about 20 minutes, but there is no time limit for consultations or a limit for the number of times a self-represented litigant may seek assistance from the DCSHRC. The Center cannot assist businesses, third parties, or commercial landlords.



Walk-in services are available at the Glen Burnie and Upper Marlboro District Court Self-Help Resource Centers from 8:30 a.m. to 4:30 p.m. Self-represented litigants may also contact the self-help hotline at (410) 260-1392 or use the live-chat service located on the Maryland Court's website under the District Court Self-Help Resource Center tab.

District Court Self-Help Resource Center Locations:

Annapolis (Call Center Only)

Glen Burnie 7500 Governor Ritchie Highway Glen Burnie, MD 21061

Upper Marlboro 14735 Main St, 069B Upper Marlboro, MD 20772

PRINCE GEORGE'S COUNTY BAR ASSOCIATION 2014 GRANT RECIPIENT LIBERTY'S PROMISE



Thanks to the support of the PGCBA, 69 Liberty's Promise participants from High Point, Parkdale and Northwestern High Schools in Prince George's County were able to visit the Supreme Court in Washington, DC, where they met with U.S. Supreme Court Justice Sonia Sotomayor.



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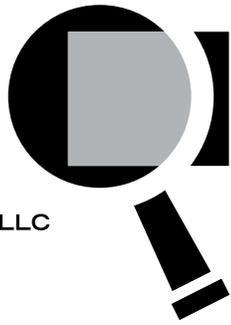
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WEDNESDAY, APRIL 29, 2015



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SPEEDY TRIAL – A PRIMER AND REFRESHER

PART FOUR - CONSTITUTIONAL SPEEDY TRIAL CONSIDERATIONS

by Robert C. Bonsib, Esq. and Megan E. Coleman, Esq.



We have finally arrived at the last edition of what turned out to be a four-part analysis of speedy trial considerations in Maryland. We began with State speedy trial considerations under Maryland Rule 4-271, Criminal Procedure Article 6-103, and *Hicks*, and then discussed speedy trial considerations under the 6th Amendment to the United States Constitution, the Maryland Declaration of Rights, and *Barker v. Wingo*. Last month we presented cases in which a constitutional speedy trial violation *did* occur. In this article we will present cases in which a constitutional speedy trial violation *did not* occur.

As a recap, in determining whether a defendant's constitutional right to a speedy trial has been violated, the court should consider:

(1) Length of Delay

a. A pre-trial delay of one year is guaranteed to be of “constitutional dimension” and “presumptively prejudicial” thus requiring the trial court to conduct a speedy trial analysis.

b. However, a delay of less than one year may be of “constitutional dimension” requiring analysis, depending on the circumstances, especially where the case is routine.

(2) Reason for the Delay

a. A deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government.

b. A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.

c. A valid reason, such as a missing witness, should serve to justify appropriate delay.

(3) Assertion of Right to a Speedy Trial

a. Did the defense make a speedy trial demand in writing?

b. Did the defense oppose any requests for continuances or make repeated requests for continuances?

c. Did the defense adopt and incorporate speedy trial demands made by co-defendants?

(4) Actual Prejudice to the Defendant

a. Oppressive pretrial incarceration

b. Anxiety and concern

c. Impairment of the defense – loss of evidence or witness

d. Financial strain and loss of employment? Maybe

A Constitutional Speedy Trial Violation Did Not Occur in the Following Cases:

(1) In *Howard v. State*, 66 Md.App. 273 (1986), *cert. denied*, 306 Md. 288, an eight month delay was upheld where two months of that delay were deemed to be consented to by the defendant.

Length of delay: Eight months. Howard and others were charged with conspiracy to commit robbery with a deadly weapon

Howard was arrested on September 21, 1983 and went to trial on June 19, 1984.

Reason for delay: The first trial date was February 27, 1984. The delay between arrest and this date was attributable to the orderly processing of the case, and thus not chargeable to the State. There were delays of trial on both March 19, 1984 and April 16, 1984 which the CSA said were neutral because they were just short of two months and good cause was found based upon the unavailability of courtrooms.

There were delays of trial on February 27, 1984 and May 14, 1984 which the CSA attributed to the State, but only accorded slight weight. On the February 27th trial date, the State sought to consolidate the trials of the co-defendants. Howard did not object or move to sever until the May 14th trial date. When his motion was granted, trial was promptly set within the next month, thus mitigating the effect of the delay.

Assertion of right: At arraignment on November 18, 1983 Howard filed a motion for speedy trial. On December 19, 1983, new counsel entered his appearance and filed a second motion for speedy trial. On May 15, 1984, a motion to dismiss for lack of speedy trial was filed. On June 18, 1984, Howard was brought to trial. Another motion to dismiss for lack of speedy trial was filed. The CSA found that this factor “is entitled to strong evidentiary weight.”

Actual prejudice: The only noted prejudice was pre-trial incarceration.

Balancing of the factors: The CSA said the weight accorded to the two months’ delay attributable to the State is slight, and although Howard’s assertion was timely and he was incarcerated, the delay was not of the kind or duration to warrant dismissal.

(2) In *Fields v. State*, 172 Md.App. 496 (2007), the CSA found that the trial court did not abuse its discretion in postponing

SPEEDY TRIAL , Con't

the trial date beyond the 180-day period, and the 20 month delay in bringing the defendant to trial did not violate his right to a speedy trial.

Length of delay: Over 20 months. Fields was convicted of second degree murder, conspiracy to murder, assault and firearms violations.

Reason for delay: Fields was arrested June 9, 2003 and arraigned October 7, 2003. Co-defendant Colkley filed a motion for speedy trial on October 14, 2003.

The first trial date was February 4, 2004. With respect to the first delay from arrest to this first trial date, the CSA charged the delay to the State because “the ultimate responsibility for such circumstances rests with the government.” However, it was given less weight because it was due to the complexity of the case and witness availability.

At that first trial date counsel for Fields requested a brief postponement because defense counsel was sick. The State wanted the case to be postponed until after the detective’s vacation. The administrative judge found good cause to postpone beyond 180-days. The CSA found that the five day delay was attributed to the defense and the three month delay was attributed to the State. The CSA accorded this delay neutral.

The next trial date of May 10, 2004 was postponed because the prosecutor wanted to try an older case and there was no courtroom availability. The CSA found that this weighed against the State but the CSA did not find evidence in the record that there was purposeful delay.

The next trial date of July 28, 2004 was postponed because a new prosecutor was assigned to the case and noticed that a witness was not summonsed and that the primary detective would be going on vacation the next day and would not be back until the following Monday. The defense objected. The administrative

judge admonished the State and granted a continuance but cautioned that the case would not be postponed again. The CSA weighed this delay heavily against the State.

The next trial date of October 19, 2004 which was postponed by the State because the prosecutor was in another trial.

The next court date of January 5, 2005 was postponed due to the prosecutor being assigned a new position and having a heavy workload. Also, the State said that witnesses were requesting immunity. The CSA found that “[t]he nature, complexity and various circumstances of witnesses and counsel all contributed to the reasons articulated by the State.

The next trial date was March 22, 2005. Motions to Dismiss were argued and denied. The jury was sworn March 24, 2005.

Assertion of right: Fields adopted Colkley’s demands to be tried promptly and thus asserted his right to a speedy trial.

Actual prejudice: Fields was incarcerated upon arrest on July 9, 2003 and remained incarcerated for nearly 20 months until trial. These charges were the only charges holding him. The Court recognized that the defendant endured anxiety and concern and experienced oppressive pre-trial incarceration, but the Court looked at the most important factor to establish prejudice which is the inability to prepare one’s defense. There was no contention that a witness died or had faded memories due to delay, nor that they were hindered in any way. The Court said “[i]n view of the complexity and gravity of the case, we accord great weight to the lack of any significant prejudice resulting from the delay.” *Id.* at 542-43.

Balancing of the factors: The length of delay was over 20 months and therefore the period of delay was “presumptively prejudicial.” Fields satisfied the requirement that he demand a speedy trial.

With respect to the prejudice prong, Fields never claimed his defense was impaired by destruction of evidence or unavailability or loss of memory of witnesses. The CSA recognized that the most troubling prong is the reason for delay. The State sought to try the defendants jointly but the State did nothing to bring the defendants to trial timely. The State continuously sought continuances despite assurances to the Court that it would be ready for trial each time. The CSA said that the reasons offered by the State in obtaining postponements, the lack of diligence, and the corresponding frustration of the administrative judge’s designees are “strikingly similar” to *Wilson v. State*, 148 Md.App. 601 (2002).

The CSA said that consideration of the multiple defendants represented by different counsel, recalcitrant witnesses, moderately complex issues and crowded court dockets are all properly factored into the speedy trial equation. However, the administrative duties of the prosecuting attorney are not proper considerations in an evaluation of the reasons for delaying a criminal trial and in a determination of whether a defendant has been denied the Sixth Amendment right to a speedy trial.

Although the CSA found the reasons for the delay troubling, the delay did not impair the ability of the defendants to present their defenses. The CSA said it may have been different if the delay was purposeful by the State rather than a lack of “professional diligence” and had the defendants been able to demonstrate impairment of their defenses as a result of the delay. The CSA said in weighing the actual and presumed prejudice, the scales are not tipped in favor of a violation of the 6th Amendment right to a speedy trial.

(3) In *State v. Kanneh*, 403 Md. 678 (2008), the Court of Appeals held that delay of 35 months did not violate the defendant’s constitutional right to a speedy trial.

cont'd on next page...

SPEEDY TRIAL , Con't

Length of Delay: 35 months. Kanneh was charged with sexual abuse of a minor and related offenses. The trial court ultimately dismissed the case for a violation of the defendant's constitutional right to a speedy trial. The State appealed and the COA granted certiorari before any proceedings in the intermediate appellate court.

Reason for the Delay: Kanneh was arrested on August 18, 2004. He was charged by indictment on December 3, 2004. Kanneh's attorney entered her appearance on January 18, 2005, and the first trial date was set for April 5, 2005.

At a scheduling conference on January 28, 2005, the State indicated that DNA evidence would likely not be ready for the April 5th trial date, and defense counsel agreed. The COA found that the first postponement of the April 5, 2005 trial date to obtain DNA evidence is neutral because there is no evidence that the State failed to act in a diligent manner.

The second trial date of June 6, 2005 was postponed pre-trial because the State indicated the DNA evidence had still not been processed. The COA found that this postponement due to unavailability of DNA evidence is also "largely neutral."

The third postponement of the November 28, 2005 trial date was to consolidate the defendant's trial with his father's case. This is charged against the State, but "in the balance, it has relatively little weight given that this only resulted in a delay of approximately two weeks."

The fourth postponement of the December 12, 2005 trial date was partly because of the defendant's request for severance, and partly the result of the unavailability of an interpreter. The COA found that the unavailability of an interpreter does not weigh heavily against the State. It is "analogous to the problem of overcrowded courts" which has been a "more neutral reason" that should be "weighted less heavily" but considered nonetheless.

The fifth postponement of the January 23, 2006 trial date which resulted in a delay of nine months until October 16, 2006 was caused by the inability to secure an interpreter who could simultaneously interpret court proceedings. The State had made "Herculean efforts" to find an interpreter and the original request for an interpreter had not even been made by the defense until January 28, 2005. There was no bad faith by the State, thus the delay is not weighed against the State.

The sixth postponement of the October 16, 2006 trial date to February 26, 2007 was both because of the ongoing attempt to find a qualified interpreter, and to have the defendant undergo a competency evaluation. The COA found that for the purpose of determining the defendant's competence to stand trial, that delay must be weighed against the defendant.

The seventh postponement of the February 26, 2007 trial date was due to the interpreter's recent surgery and was not the result of any bad faith, and therefore if weighed against the State, it is only slightly.

Assertion of Right: In this case, the defendant, with the assistance of counsel, acquiesced to each postponement until he objected to the final postponement in February, 2007. Therefore, this factor is weighed against the defendant and in favor of the State. The COA said under *Barker* that Kanneh's failure to assert his right is entitled to "strong evidentiary weight."

Actual Prejudice: Kanneh spent one night in jail before posting bond, and then was on pretrial supervision under the condition that he not be around children. Kanneh never complained that the restriction was onerous. Kanneh's assertion that he did not seek new employment or enroll in school because of the pending case only demonstrates minimal prejudice. There was no assertion of any actual prejudice to the defense's case.

Balancing of the Factors: Although the delay was significant, the nature of the case was complex, there was no bad faith on the part of the State in securing an interpreter which was the primary reason for the delay. The defendant never objected to the postponements which is accorded great evidentiary weight. Any prejudice to the defendant was minimal, thus the defendant's right to a speedy trial was not violated.

(4) In *Henry v. State*, 204 Md.App. 509 (2012), the CSA held that Henry's constitutional right to a speedy trial was not violated.

Length of delay: 13 months between the defendant's arrest for rape and the commencement of his trial.

Reason for delay: The initial six month period between the charging date and the first trial date was accorded neutral status as it is necessary for the orderly administration of justice. On the first trial date, the State moved to continue that date due to the unavailability of the prosecutor. The defendant did not object, and the trial was rescheduled for three months later. This three month delay is chargeable to the State although the defense didn't object.

At the second trial date the State asked for a continuance due to a backlog at the DNA lab. The defense objected but the administrative judge found good cause to postpone the trial beyond *Hicks*, and the trial was reset for five weeks later.

The State moved one more time to postpone the third trial date, but that motion was denied.

The defense moved in limine to exclude DNA evidence the morning of trial, that had just been received that same morning. The court denied that motion. The defense then moved to postpone trial but asserted that the defendant was not waiving his speedy trial right. The administrative judge granted the defendant's request for a continuance and trial was reset four months later.

SPEEDY TRIAL , Con't

The CSA found that a five-week delay due to backlog at the State DNA lab was not to be weighted heavily. The four month continuance granted after the defendant sought to exclude DNA evidence was for a neutral reason. The prosecution was complex. There was no evidence that the State failed to act in a diligent manner. Even to the extent that the delays in obtaining DNA evidence were attributable to the State, those reasons are weighed less heavily in the analysis.

Assertion of right: The defendant first asserted his right to a speedy trial in an omnibus motion, he then reasserted the right at the conclusion of the motions hearing, and then again when defense counsel asked for a continuance of the trial date. Thus the defendant clearly asserted his right to a speedy trial.

Actual prejudice: The defendant said he suffered anxiety and concern about his family as well as personal and business affairs, the defendant was also incarcerated the entire time. But the defendant did not assert that his defense was impaired. The CSA found that no actual prejudice occurred, especially since he received acquittals on all counts except second degree assault.

Balancing: After balancing the factors the CSA concluded that Henry's constitutional speedy trial right was not violated.

(5) In *Howard v. State*, 440 Md. 427 (2014), the COA held that a 28 month delay did not violate Howard's constitutional right to a speedy trial.

Length of delay: 28 months. Howard was convicted of 1st degree rape and 1st degree sexual offense.

Reason for delay: The COA found that "[i]n the aggregate, the reasons for the delay are neutral." Howard caused 183 days of delay because he discharged his first lawyer and his second lawyer needed time to prepare. The COA found that there were 223 days of delay which were not

caused by either party, but rather were for the orderly administration of justice in setting the first trial date, and also for defense counsel to await expert analysis of DNA. There were 71 days of delay that were neutral for defense counsel to review discovery that had just been provided by the State. The State caused 270 days of delay due to State's witness' unavailability. The State caused 98 days of delay because Howard's counsel had not yet received DNA test results.

Assertion of right: Howard did "frequently and strongly assert[] his right to a speedy trial" through motions.

Actual prejudice: Howard alleged that two years of his life were gone while incarcerated and that he was almost stabbed in custody. Howard did not allege that his defense was impaired by evidence gone missing, witness unavailability, or memories faded.

Balancing of factors: The COA concluded that the lack of actual prejudice and the neutral reasons for the delay outweighed the length of the delay and Howard's assertion of his right to a speedy trial. The COA held that Howard's constitutional right to a speedy trial was not violated.

Summary from Cases

Defense Should Assert there was a Constitutional Violation because of...

1. Routine charges
2. Loss of evidence, memories faded, unavailability of essential witnesses
3. Prosecutor's busy schedule not an appropriate consideration for the analysis
4. Prosecutor did not act diligently in bringing defendant to trial (or acted indifferently or in bad faith)
5. Repeated demands for a speedy trial

State Should Assert there was No Constitutional Violation because of...

1. Orderly processing of setting the case in for trial
2. Courtroom unavailability
3. Need for DNA evidence
4. Sickness/Injury/Unavailability of witnesses, interpreters, counsel
5. Need for competency exam
6. Interpreter unavailability
7. Complexity in the case and serious nature of the charges
8. No objection to continuances by the defendant
9. No actual prejudice articulated by the defendant
10. Good faith and professional diligence by the prosecutor

Robert C. Bonsib, Esq. is a partner at MarcusBonsib, LLC and Chair of the PGCBA Federal Practice Committee. Megan E. Coleman, Esq. is an Associate at MarcusBonsib, LLC. Both concentrate their practices in the defense of state and federal criminal matters.

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Tiffany H. Anderson
Administrative Judge

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May 12, 2015

Dear Bar Participants,

On behalf of the Prince George's County District Court, we would like to thank each of you who attended the 1st Annual Roundtable Symposium (formerly the Town Hall) and our special guest, Chief Judge John P. Morrissey. Our objective for the symposium was to provide a forum for interactive discussions between the bench and the bar in specialized areas of the law. We hope you found the new format beneficial and informative. We appreciate you taking the time and effort to attend.

The symposium began with my opening remarks, followed by Chief Judge Morrissey, who offered updates on the District Court, including an explanation of and information on the Maryland Electronic Courts (MDEC). MDEC is an integrated, Judiciary-wide case management system that will be used by all courts in the Maryland state court system. Currently, MDEC is underway in Anne Arundel County and projected to be implemented in Prince George's County within the next few years.

Following the opening remarks, the attendees were able to participate in two (2) break-out sessions in the following areas: Civil, Criminal, Professionalism and Ethics, Landlord and Tenant, Problem-Solving Courts (Mental Health and Drug Courts) and Domestic Violence. Information from the Professionalism and Ethics session presented by Judges Thurman Rhodes and Gregory Powell; the Civil session presented by Judges Robin Bright and Katina Steuart; and the Problem-Solving Courts session presented by Judges Patrice Lewis, Karen Mason and Clayton Aarons will be available on the PGCBA website at www.pgcba.com.

Additionally, we appreciate the feedback received thus far and look forward to making the symposium an even bigger event next year.

Again, thank you for making our 1st Annual Roundtable Symposium a success!

Regards,

The Honorable Tiffany H. Anderson
Administrative Judge, District V

FAMILY LAW, MATTERS: CELEBRATING THE RETIREMENT OF THE HONORABLE JULIA B. WEATHERLY | by *Lindsey K. Erdmann, Esq.*

I remember the day I first met Judge Julia B. Weatherly like it was yesterday. It was 2003, and I was a third year law student. I was young, energetic, and eager to become a family law attorney. I had heard that a judicial clerkship in Judge Weatherly's chambers was the "clerkship of dreams" for any aspiring family law practitioner. I was ecstatic when I learned that I was selected to interview for a clerkship. Filled with excitement, I packed my briefcase and headed to Upper Marlboro for my 8:30 am interview. I arrived at the Circuit Courthouse with plenty of time to spare, but was held by security until the courthouse opened to the public. It was only when the clock struck 8:30 am that security told me that I was in the wrong building. You see, in 2003, the Duvall Wing was under construction, and Judge Weatherly's chambers were located in the County Administration Building across the street. My heart began to race because I realized that I was late for the most important interview of my very fresh legal career. I turned and began to run at full speed in heels, around the Circuit Courthouse, across Main Street, and to the CAB building. At that time, as I ran, all I imagined was how I had just blown this great opportunity. In that moment, I had no idea of Judge Weatherly's empathetic nature, or that she would find the story amusing.

When I arrived, much to my surprise, Judge Weatherly apologized for the confusion and the trouble the "split courthouse" had caused me. She immediately made me feel at ease, and joked that this was a test to determine if I was up to the challenge of walking, jogging, or running (my choice) that trip every work day. As I interviewed with Judge Weatherly, her administrative aide, and her then-current law clerk, it became clear to me how important her administrative aide Missy Windsor and her law clerks were to her, and how much their opinions mattered. The longer we all talked, the more apparent it became that this clerkship would be something so much greater than just learning the law or the inner workings of the courthouse.

I was going to learn from a recognized authority in family law, and I was going to become part of a close circle that has lasted through the years. In that moment, I didn't care if I had to walk, jog, or run that trip ten times a day carrying stacks of files, her bench book, and her robe. I knew I wanted this clerkship desperately. I was ecstatic when I was offered the opportunity to become her fourth law clerk, and I quickly accepted the position.

Now 12 years later, I have been asked by the Prince George's County Bar Association to write a tribute to Judge Weatherly, in celebration of her recent retirement. I am honored to have been selected for this task, and hope that I can do the task justice. It is difficult, if not impossible, to capture such an illustrious career and such a wonderful, giving, and caring human being in a matter of three pages. However, as I gathered my thoughts, I reflected back on the story of our first meeting with fondness because of how much it illustrates the person who I have come to know and admire – a brilliant mind; a true leader with a team-focused approach; an educator and mentor; a kind, empathetic, and overly humble person; and a sense of humor rivaled only by professional comedians. I assure you that my views are shared by all 15 of Judge Weatherly's law clerks. And, I trust that any person who has come into contact with Judge Weatherly throughout her distinguished career has similar views, and has a fond memory or story of their own to share.

It is not surprising, looking at Judge Weatherly's background, that she has become the accomplished jurist and person that she is today. Judge Weatherly was born and raised in Michigan, and went on to graduate from the University of Michigan in 1971. Abhorring the brutal winters, Judge Weatherly was determined to move south, promising herself that she would apply to and ultimately attend the law school, "furthest south who would take me." Well, Judge Weatherly did not land as far south as she had envisioned, but



The Honorable Julia B. Weatherly

the nation's capital did bring substantially improved weather. To nobody's surprise, Judge Weatherly excelled in law school, quickly graduating from the George Washington University Law School. Following graduation from law school, Judge Weatherly began practicing law in Prince George's County, and shortly thereafter, she and her law partners formed Weatherly, Schizsik & Isen in Riverdale. A significant portion of her law practice was devoted to family law, a passion which has followed her throughout her career. Those who practiced with or against Judge Weatherly recall her compassionate handling of cases and her understanding of the law and its nuances. Those same people recount her work ethic and her drive to settle cases in fair and practical ways. She earned the respect of her colleagues, which she maintains to this day.

Judge Weatherly has spent the past 28 years on the Prince George's County Circuit Court bench, first as a Master of Domestic

FAMILY LAW, MATTERS, CON'T



L to R: Judge Cathy H. Serrette;
U.S. Supreme Court Justice Sonia Sotomayor;
Judge Julia B. Weatherly



Judge Julia B. Weatherly and Lindsey K. Erdmann

Relations and later as an Associate Judge. In 1987, Judge Weatherly made history as one of the youngest Masters ever appointed in the State. She maintained the position of full-time Master for 13 years, until she was appointed as an Associate Judge of the Circuit Court in September 2000. She faithfully served until her retirement on March 31, 2015. During her tenure, Judge Weatherly spent 8 years as the Coordinating Judge of the Family Division, overseeing Masters' operations, establishing and maintaining consistency in the time standards of family cases ("the DCM"), and shaping much of the Family Division as we know it today. Judge Weatherly has served on numerous committees and boards throughout her career, and has received countless awards and honors for her contributions and service.

The contributions made by Judge Weatherly to her colleagues, to her law clerks, and to the legal community cannot be understated. It is these contributions for which she will be remembered and missed around the Circuit Courthouse. If you were to ask her judicial colleagues for their opinions on Judge Weatherly, each would describe her as a sharp mind,

dedicated to her work, and possessing a larger-than-life personality. Many would recount how her car is often the last vehicle in the parking lot at the end of the night or on a weekend, as she routinely stays late to write opinions in family law matters, rule on chambers motions, and prepare for continuing legal education seminars which she presents. Most would not be surprised to learn that, in her 15 years as a Judge, she has herself penned every single opinion stemming from a family law trial. Judge Weatherly believes every family law case is different, and each is equally deserving of her time and empathy. She puts countless hours into the reasoning and drafting of her opinions, often finalizing after the third, fifth, or eighth draft. Other judges would talk about Judge Weatherly's "open door policy," and her willingness to answer questions and provide input and guidance on family law cases, especially to newer judges without family law backgrounds. Many jurists from across the state would recall learning family law from Judge Weatherly at New Trial Judge Orientation, which she has taught at nearly every year. Still other judges would recount committees on which he/she served with Judge Weatherly. And all judges would

talk about her smile, her humor, and the warmth she brought during her tenure to the Circuit Court bench.

If you were to ask the members of the Bar for their impressions of Judge Weatherly, each would say she brought something very special to the bench in Prince George's County. Each would tell you that even if they lost their case in front of Judge Weatherly, he/she felt they were allowed to present their case and that the trial was fair. Non-family law attorneys would say that Judge Weatherly would familiarize herself with the case file, and any unusual case law, and be fully prepared to consider the case. They would say that if she didn't know the answer, she would figure it out. It is rare to find a family law practitioner in this county who has not attended a seminar at which Judge Weatherly has presented. Recognized as an elite family law jurist, Judge Weatherly is frequently sought out as a speaker at local, state-wide, and national conferences in the area of family law. No seminar is "too small" or "too large" for Judge Weatherly, who believes that continuing legal education is crucial

cont'd on next page...

FAMILY LAW, MATTERS, CON'T

to the success of the legal community. Finally, Bar members will all recount Judge Weatherly's approachability, her friendly disposition, and her warm personality.

If you were to ask Judge Weatherly's law clerks, her administrative aide Missy Windsor, her bailiff Jimmy Washington, and her courtroom clerk Kim Waymer, each would have their own funny and moving stories to tell. Most stories would likely focus on our numerous get-togethers at her home, where we cook and laugh for hours until we are told to go home. Although most judges hold an annual get-together for their clerks and staff, Judge Weatherly hosts an additional six to ten throughout the year, including a holiday party, where we are each presented with a small gift hand-selected to reflect each person's unique personality. Six of us have had the honor of being married by Judge Weatherly, who put a special and unique touch on each person's ceremony. Each of us now counts the others as a friend, and often a mentor, and we have Judge Weatherly to thank for creating this special connection.

As for me, if I had a nickel for every time somebody said, "you must have had the most amazing experience clerking with Judge Weatherly," I would be a very wealthy woman. I recognize how blessed I am to have had the opportunity to learn from the best. I do not take



Former clerk Megan Ruddy; former intern; Judge Julia B. Weatherly; Executive administrative aide Missy Windsor; Former clerk Monise Brown; Former clerk Lindsey Erdmann; and Former clerk Cathy Howard.

for granted the wonderful experience I was afforded, and the connections and friendships that I have made along the way. As I reflect back on the first day I met Judge Weatherly, I realize how much I have grown and changed in these 12 years, and how much credit is owed to Judge Weatherly for who her law clerks have become both professionally and personally. Interestingly, Judge Weatherly would never accept the credit due, and would likely downplay the role and impact she has had on so many people. This is just part of the Judge Weatherly that I know and admire. Her constant presence around the courthouse will be missed.

Lindsey K. Erdmann is an attorney at McNamee, Hosea, Jernigan, Kim, Greenan, & Lynch, P.A., with offices in Greenbelt and Annapolis. Lindsey's practice focuses primarily on family law, in addition to estates and trusts planning and administration. Lindsey received her undergraduate degree from the University of Delaware, and her Juris Doctor from the University of Maryland School of Law in 2003. Lindsey is active in numerous committees and charitable causes. Lindsey is past chair of the Family Law Committee of the Prince George's County Bar Association; former president of the Prince George's County Chapter of the Women's Bar Association; and past president of Community Legal Services of Prince George's County, Inc. Lindsey is a current member of the Section Council of Family and Juvenile Law for the Maryland State Bar Association.

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SUPREME COURT HOLDS POLICE CANNOT PROLONG TRAFFIC STOP FOR DOG SNIFF ABSENT REASONABLE SUSPICION | By Elsa W. Smith, Esq.

In *Rodriguez v. United States*, No. 13-19972, slip op. (Decided April 21, 2015), the Supreme Court held that the police may not prolong a routine traffic stop in order to conduct a dog sniff, absent reasonable suspicion.

Rodriguez was indicted in the United States District Court for the District of Nebraska on one count of possession with intent to distribute 50 grams or more of methamphetamine. Rodriguez moved to suppress the evidence seized from his car on the basis, in part, that the officer did not have reasonable suspicion to prolong the traffic stop to conduct the dog sniff. While finding no reasonable suspicion to detain Rodriguez after he was issued a traffic warning, the Magistrate Judge nevertheless denied the suppression motion. The Judge cited Eighth Circuit precedent which deemed a delay of seven to eight minutes for a dog sniff a *de minimis* Fourth Amendment intrusion. *Id.* slip op. at 3. The District Court adopted the Magistrate Judge's findings and conclusions and thus denied Rodriguez's motion to suppress. As a result of that ruling, Rodriguez entered a conditional guilty plea and was sentenced to five years in prison. The Supreme Court granted certiorari.

The Court began its analysis by comparing the brevity of a traffic stop to that of a *Terry* stop. *Terry v. Ohio*, 392 U.S. 1 (1968). "The tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'- to address the traffic violation that warranted the stop and attend to related safety concerns." *Illinois v. Caballes*, 543 U.S. at 407. The Court went on to note that because addressing the infraction is the reason for the stop, the duration may not be longer than necessary to effectuate that purpose. *Rodriguez*, slip op. at 5. In *Caballes*, the Court warned of the potential of a traffic stop to become unlawful if prolonged beyond the time required to complete the "mission" of issuing a warning ticket. 543

U.S. at 407. The Court acknowledged that the "mission" in issuing a traffic ticket typically includes "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance." *Rodriguez*, slip op. at 6. The Court characterized a dog sniff as falling outside of the officer's traffic mission. A dog sniff "[l]acks the same close connection to roadway safety as the ordinary inquiries." *Rodriguez*, slip op. at 7.

The Court then turned to the *de minimis* rule advanced by the Eighth Circuit. In this case, the Eighth Circuit believed that the Fourth Amendment intrusion could be offset by the government's "strong interest in interdicting the flow of illegal drugs along the nation's highways." *Id.*, citing *\$404,905.00 in U.S. Currency v. U.S.*, 182 F. 3d. at 649. Rejecting that

argument, the Court noted that the mission of conducting a traffic stop diverges from the objective of an on-scene criminal investigation. Although asking someone who is lawfully stopped to exit their car as in *Pennsylvania v. Mimms*, 434 U.S. 106, 110-111 (1977) has been found to be a *de minimis* intrusion, the Court found that a dog sniff could not be justified on the same grounds. "Highway and safety are interests different in kind from the Government's endeavor to detect crime in general or drug trafficking in particular." *Id.*, slip op. at 8.

The second issue of whether reasonable suspicion of criminal activity justified a detention after the traffic warning was given was not addressed by this Court. That question remains open for a determination by the Eighth Circuit Court of Appeals. *Id.* slip op. at 9.

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To learn more about this opportunity you can visit **Johnny Da Silva** at the clinic or call him at 301-952-3010.

Additionally, we operate a **Lawyer Referral Program**. We refer low income eligible clients for pro bono or reduced fee legal representation. These are clients who do not have the economic means to pay for legal representation. We encourage pro bono and also have **Funding Available to Pay for Attorneys Fees!** CLS refers cases under our Family Law Judicare Program. Funding for this program is made available by Maryland Legal Services Corporation. Attorneys receive \$80.00 per hour up to \$1,600.00 per case. CLS refers matters involving family law, domestic violence, unaccompanied youth, foreclosure prevention, landlord/tenant, bankruptcy chapter 7, unpaid wages and other legal matters. Payment is made after the case is concluded. Please contact Michael Udejiofor at 240-391-6532 to be added to the list!

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Please note that the Maryland State Bar Association and Maryland Legal Services Corporation have acknowledged with special appreciation Honor Roll Members. The following financial institutions **pay premium interest rates** on IOLTA in support of civil legal services for low-income Marylanders:

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Community Legal Services of Prince George's County, Inc. is a non-profit organization established to provide quality civil legal services to low-income persons in Prince George's County. It does this through the generous contribution of legal advice and legal representation by members of the private Bar. Additionally, CLS operates free legal clinics in the County. They are located in the Circuit Court House, Langley Park and Suitland. For more information about our services, please contact Nora C. Eidelman, at 240-391-6532, ext. 12.

Thanks!

The Prince George's County Bar Association would like to thank all of the CLE organizers, presenters, and participants. The Wills, Trust & Estates, the Goldstein, the Family Law, and the Tort Seminars provided a wealth of real time knowledge on topics to advance our areas of practice.

Thank you, Thank You, Thank You!!!

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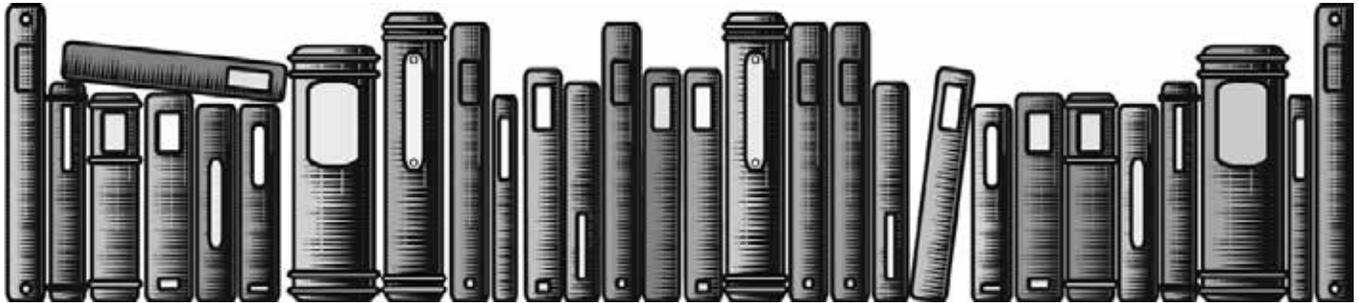
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Information from the Prince George's County Circuit Court Law Library



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*The Prince George's County Circuit Court Law Library presents a list
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New titles at the Law Library April 2015

MSBA

Family Practice Update, 2014
KFM 1294 .F35 2014 RESERVE

Finality of Judgments and Other Appellate
Trigger Issues, 2014
KFM 1744 .A97 2014 RESERVE

Maryland Tort Damages, 7th ed.
KFM 1395 .M377 2015 RESERVE

Patent, Copyright, Trade Secret, Right of

Publicity, Trademark Handbook for
Maryland Business and Litigation
Lawyers

KFM 1530 .P38 2013 RESERVE

Preparation and Trial of a Personal Injury
Case, 2014

KFM 1397 .P3 P74 2014 RESERVE

Will Drafting in Maryland, 2013 revised ed.

KFM 1344 .W68 2013 RESERVE

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04/15/14-05/15/15

Number of Calls: 602

Number of Referrals: 360

Top 5 Areas of Law:

1. Torts
2. Real Estate
3. Family
4. Wills & Estates
5. Employment



*Thank
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To our members who gave their time and support to answer our legal Advice Line once a month, prepare an article for our NewsJournal, and serve on one of our various committees.

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Jezic & Moyse, LLC is proud to announce that Ahmet Hisim has joined the firm, practicing criminal and civil litigation. Mr. Hisim was a prosecutor for 22 years and has handled nearly 150 jury trials.

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