



MUNICIPAL COURT

# Judges Bulletin

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## Council of Municipal Court Judges Officers 2000 - 2001

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## President's Corner



LEST WE DEFEND  
OURSELVES, THEN  
WHO WILL?

At the penning of this letter, we've just concluded our second Annual Legislative Breakfast, on January 31, 2002, held in the Empire Room of the Twin Towers. It was a huge success, both in terms of the attendance of legislators, lobbyists, Appellate Judges and some of our Executive Committee members. It would be remiss if I failed to pause and personally thank Senator Michael Meyer von Bremen (D-Albany) for taking time out of a busy schedule to pay a visit with us. Additionally we offer our thanks to Appellate Court Judges Herbert E. Phipps and John J. Ellington for stopping by to share breakfast with us. I especially thank the Executive Committee members who contacted their respective delegations to invite them and for those senators and representatives who stopped in to visit with us during our breakfast.

Once again, Marla Moore, LaShawn Murphy and Robbie Foote worked tirelessly to ensure that this event was a success as well and we offer our many thanks and kudos to them. Those of you who were not able to attend missed a very good event. The success of this event has led me to propose to our members that we make this an official

mid-year meeting of the members of the Council. Every member will be invited to this proposed mid-year meeting, which, if approved at our Annual Meeting in Augusta, will commence next January. We especially desire to have the benefit of the attendance of our Executive Committee members and the twenty (20) Districts' Representatives. We have already seen the need and success of a mid-year meeting of our State Bar of Georgia, where members are invited, but especially the Board of Governors, in attendance. We want to duplicate that success, starting with the next legislative breakfast in January, 2003. I will be asking Judge Charles Barrett and Angela Butts to co-chair the task force and work with our President-Elect for the planning of such event.

The legislative breakfast was followed by meetings of the Executive Committee of the Georgia Council of Municipal Court Judges and the Georgia Municipal Court Judges' Training Council. We were especially honored to enjoy the return of the attendance of our vintage and venerable member, the Honorable Frost Ward, who among other offices, serves as our Treasurer.

It concerns me that if our members do not defend this organization and our intelligent self-interests, as we respect-

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## President's Corner *continued*

fully seek membership at the "table of brotherhood" of the Judicial Council of Georgia, with the "powers that be," then who will? It is imperative that we not only enjoy our mini-successes along the road to full membership but to build upon them. Following my last letter thanking Justice Thompson for his call and invitation for input on the Supreme Court's Video Conferencing rules this year, we received a very kind letter from Justice Hunstein, Chairperson of the Supreme Court's Commission on Equality, inviting our recommendation for an appointment by the Court to its Interpreter's Commission. We have responded, with the approval of the Executive Committee, by recommending the appointment of Judge Viviane Ernestes, our President-Elect. We know that she will ably represent our interests in that capacity.

We were honored as well by the telephone call from the Honorable David T. Emerson, of the Douglas Judicial Circuit and Chairperson of the Georgia Courts Automation Commission, seeking our recommendation for a replacement member to that body. The Executive Committee, at our last meeting approved the recommendation of Judge Elaine L. Carlisle to serve us in that capacity. Please join me in thanking both Judge Carlisle and Judge Ernestes, for their willingness to serve us in those forums also.

Both Councils have actively been involved since their respective inception in promoting the ideals of jurisprudence from our level of courts by providing quality programs of continuing education and operational improvements. We look for ways to

expose our members to new and improved methodologies to legal, judicial and challenging social problems presented to our courts on a day-to-day basis. We need to assess ourselves whenever we meet, whether at our several venues of training and educational development, annual meeting or at the newly proposed mid-year meeting, to individually and collectively, review ways to improve upon what we have begun.

By each of our members attending these meetings and actively participating, both formally and informally, we can't help but to fortify our strengths and manage our weaknesses, in dealing with the myriad of issues raised, fully discussed, and creatively resolved. It is our resolve, as the front line of the Georgia Judiciary that we serve on a daily basis, to provide assistance to our members in their respective endeavors to dispense justice, through quality continuing education and the sharing of information, both from a theoretical framework and practical perspectives.

By increasing our members' attendance at all of our meetings and each of us acting as a committee of one to bring a colleague along, is the extent to which you help promote justice and collective presence, not only within our respective jurisdictions, but within the judicial community as a whole. We are now providing expense reimbursements, within the state guidelines, for those officers and District Representatives who attend meetings.

None of us understand the objections being raised by our Superior Court Judges Council brethren, concerning our membership to the

Judicial Council, other than it potentially modifies their voting bloc. Perhaps some of our members fear that standing up for our rank will not sit well with objecting brethren. However, what we fail to realize is that by our silence or acquiescence, we in effect, join our naysayer in unjustly condemning ourselves. Let us instead of effectively bowing to classic elitism, join others of us in forming allies to fortify our position in seeking equity from our brethren who have exclusive jurisdiction as judges of our "courts of equity."

We humbly enlist your assistance to help us share with everyone who will listen (to borrow editorially from the Kia auto owners commercial theme) our active concerns and appreciation of what we have and what it takes and means to be a front line member of an excellent judiciary in our state. Let us show our pride in being a Municipal Court Judge and remind those who ascended from our rank, to speak up for it. Let us be reminded, if we do not represent ourselves, then who will?

## Thank You!

Thank you for remembering me with the beautiful plant during my recovery time due to my recent surgery. Each day I am getting a little stronger. Hope to be back in full swing by January.

Frost Ward

# Money Watch



Judge Frost Ward, Treasurer  
frostw@bellsouth.net

The Municipal Judges dues account is healthy and growing. As of December 31, 2001 the balance on hand in the bank was \$17,904.84. We have paid one invoice this year, it was for the legislative breakfast in the amount of \$710.54. After the legislative's breakfast a meeting was held by the Municipal Council. One item on the agenda concerned the dues paid by the judges. A motion was made and approved that the dues payments be put on the AOCs website so all the judges would have access to view their account. Very shortly you will be able to go to the website and check your payments or the lack of your payments. I do not know exactly what layout you will be viewing on the site, so allow me to brief you on how I have the account set up on my computer which may help if you have questions.

I use the software program Quicken. Each entry begins with the

date I made the deposit. Next is the check number. I started with just the number but after a couple of calls asking me if I could remember if a city/county or a judge paid the dues I started using the letters C and P. A check number with a C indicates a city or county paid. A check with a P indicates it was paid by a personal check. Next is the judge's name, then the amount deposited at that time for that judge. The second line is the name of the city or cities, that was on the invoice for the judge or judges. If there is more than one city I have now started putting the name of the city that issued the check. If you see a check amount next to the city or county name that is more than the deposit for that particular judge it indicates that a city or county paid for more than one judge with the same check. (Go to the other judge or judges name for that city and you will find the same thing.)

The first few months of paying dues I could keep up with who paid what and make some adjustments for

any over payments, but now there are so many judges names in the program I do not have time to keep up with it. If you find the amount of dues is more than should have been paid for you since we started collecting dues, maybe you can work it out with you city/cities for next year.

As the Chief Judge of your court or courts be sure the judges assisting you (regardless of title) are reminded that they should pay dues also. That is the way the Municipal Council set it up when dues were voted on in 1999, that ALL judges should pay dues.

If you have any questions please call my court administrator, Mrs. Essie West at 770-960-3012 give her your NAME and TELEPHONE NUMBER and I will return your call. Mrs. West will not be able to answer any questions regarding dues because she does not have access to this program because it is on my home computer.

Until next time.

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## While on Probation

Judge Frost Ward  
frostw@bellsouth.net

First, let me say thanks for the cards, telephone calls, e-mails and flowers that I received due to my recent surgery. I am recovering nicely, just need to gain a few more pounds.

The last meeting of the Probation Council was December 6, 2001. During that time I was in a horizontal position on a bed in Piedmont hospital with many tubes attached to

me. Alan Adams, Vice Chairman of the Council chaired the meeting and did an excellent job.

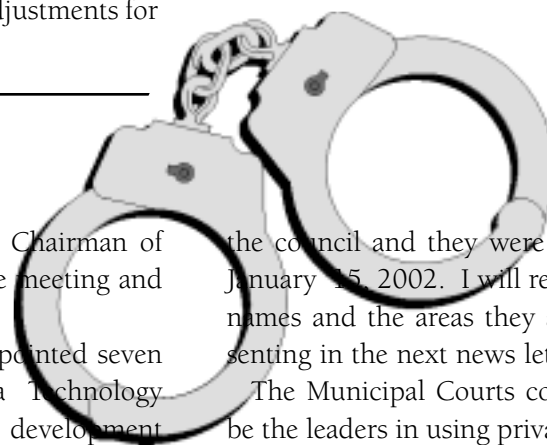
Vice-chair Adams appointed seven members to serve on a Technology sub-committee for the development of a database for collection of probation data. This committee held their first meeting on January 29, 2002. I was in attendance at the meeting and it seemed to be off to a good start.

The Governor has made his appointments for the vacancies on

the council and they were sworn in January 15, 2002. I will report their names and the areas they are representing in the next news letter.

The Municipal Courts continue to be the leaders in using private probation. There are 36 Private Probation Entities listed on the most current list, two are from out of state.

If you have any questions or problems please contact Mrs. Debra Nesbit at 404-651-7616 or myself at 770-960-3012.



# Minutes from January Council Meeting

January 31, 2002, Atlanta, Georgia

The meeting was called to order by the President at 9:10 a.m. The minutes of the October 5, 2001 meeting were approved with one correction indicating that Treasurer Frost Ward was present.

Marla Moore announced that the Supreme Court Commission on Interpreters requested a recommendation for a Municipal Court judge be appointed to that commission. Upon a motion and unanimous approval, the recommending of Judge Viviane Ernstes to the Council

was approved. Cristina Franco, the newly appointed Director of the Commission of Interpreters, also introduced herself and briefly addressed those attending the meeting.

Next, the Treasurer gave his report. \$710.54 will be appropriated for the Legislative Breakfast. The Treasurer indicated that collections of dues were going well. The Treasurer's report was unanimously approved.

Pending legislation, including House Bill 1169 to correct problems created by the *Shaver v. City of Peachtree City* case was discussed.

Upon a motion and unanimous vote, it was agreed that the Council would submit an Amicus brief in the pending Petition for Certiorari in that case. The Secretary will be responsible for preparing the brief. (See *Shaver v. City of Peachtree City*, below.)

In light of a recent ruling of the Gwinnett County (State Court in *State v. West*), in which that Court held that bindovers to a court of record could not be authorized without the defendant's consent, it was determined that Council would not submit an Amicus brief in the State's pending appeal of that ruling. Instead, the matter will be discussed further and, if necessary, the Council may consider legislation to be proposed at the next session.

Additional matters were discussed regarding financial issues. Expense report forms were distributed. State funds will be available for travel, meals and lodging within the confines of general State regulations regarding these matters.

Judge Cielinski reported that the benchbook revisions are now being reviewed by Richard Reaves, and that the final document would be on CD-ROM. Judge Cielinski also announced that the State Bar's CLE division would not certify the instructors' course required by ICJE. It is apparently the subject of an appeal.

Judge Washburn reported that she had been receiving excellent submissions to the newsletter, and that February 15, 2002, would be the deadline for the next issue. It was suggested that the newsletter also be sent to the Municipal Court clerks.

## ***Shaver v. City of Peachtree City***

Judge Bill Coolidge  
Municipal Court of Suwanee

In December, 2001, the Court of Appeals issued a decision in *Shaver v. City of Peachtree City* (A01A2500), which concerned an appeal of a conviction for underaged possession of alcoholic beverages. The charges were originally brought in Municipal Court via a Uniform Traffic Citation, which is common practice in Municipal and other lower courts. The Court of Appeals reversed the Superior Court's decision affirming the conviction and found that not only was a UTC unauthorized for non-traffic offenses, its use deprived the Court of jurisdiction.

Given the great ramifications of claims that thousands of closed cases are nullities due to the lack of jurisdiction, the Council has submitted an amicus brief in Peachtree City's attempt to obtain Georgia Supreme Court review of the matter. As of this writing, Peachtree City's certiorari petition remains pending in the

Supreme Court.

In order to address the *Shaver* case's ramifications on a going forward basis, House Bill 1169 has been introduced, which would grant municipal courts specific authority to charge misdemeanor cases on citations or accusations. The bill would also allow the amendment of an accusation or citation. The bill passed the House on February 12, 2002 and is now in the Senate Public Safety Committee. The Georgia Municipal Association organized the effort to draft and pass this bill.

In addition, at least one State Court has ruled that municipal courts cannot bind over a case without the defendant's consent. That case is now on appeal to the Georgia Court of Appeals. At the January 31, 2002 Council meeting, the possibility of submitting legislation during the next session was discussed. If anyone has any opinions on this issue, please contact Bill Coolidge or Charles Barrett.

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## Minutes from January Council Meeting *continued*

President Williams reported that he attended the December meeting of the Judicial Council of Georgia. The situation to respect our efforts to obtain membership on that Board is unchanged. The only class of courts in opposition to our membership is the Superior Court. No action was taken on any issues proposed by the Municipal Courts. Judge Williams' reported that the Judicial Council meeting was well attended. President Williams indicated that we need to continue our outreach to other agencies, such as the State Bar.

There was no report from the GMA Liaison Committee.

Judge Ward reported he had been appointed Chairman of the County and Municipal Probation Advisory Council. The Governor also appointed a Sheriff, a Mayor and a County Commissioner to the Board and it now has full membership. The

Municipal Court still remained the most frequent users of private probation services.

Because Judge Roberts was defeated in his re-election effort in Alpharetta, he has resigned as a member of the automation committee. The appointment for the replacement is to be made by the Chief Justice. If asked, the Council will recommend the appointment of Judge Carlisle.

Marla Moore also announced that as a result of the reorganization of various Supreme Court commissions, some AOC staff may be transferred as a result.

The issue regarding the disposition of funds held by the former Association of Municipal Court Judges was discussed again. The goal is to have a presentation ready for the meeting in April.

A survey has determined that only

one city requires specific performance evaluations of non-Court personnel for judges. Members were encouraged to respond to the AOC's customer service survey.

Marla Moore reported that information from our survey will be included in the 2001 Research Review, which includes information regarding the caseload of all classes of courts. The survey results will be sent out soon. There was some discussion regarding the designation of the Legislative Breakfast as a mid-year meeting as an effort to encourage better attendance.

The next meeting will be held on April 12, 2002, at a central location which most likely will be the Electrical Cooperative Training Center in Smarr. The meeting was adjourned at 11:05 a.m.

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## Spreading Holiday Cheer...

Robbie Foote  
Judicial Liaison Officer, AOC

In an effort to bring happiness and cheer during the holiday season, Judge Michael Cielinski, Chief Judge of the Columbus Recorder's Court, has helped to coordinate an annual toy drive for local Columbus hospitals and the Ronald McDonald House. For the past five years, the event has brought together nearby public safety officers, including members of the Muscogee County Sheriff's department, the Columbus

Police Department, the Woodbury Police Department, as well as area firefighters.

Through monetary donations from local businesses, banks, and the volunteers themselves, the public safety officers purchase a variety of toys to give the families of sick children who could not be home for the holidays. These toys are in turn anonymously left on the doorsteps of the guests at the Ronald McDonald House and the area hospitals. In addition to the wonderful toys provided for the children, a delicious Christmas meal is



served to the families by the program's volunteers.

Undoubtedly, the feelings of joy, celebration, and thankfulness, that are felt by the recipients of such heartfelt gifts, can never be fully expressed. As we begin this new year, let us use this inspirational story as an example of how we can each give back to our own communities and continue to go above and beyond the call of duty, not only during the holiday season, but throughout the entire year.



# GA Municipal Courts Training Council Meeting

## Summary of Minutes Meeting Held January 31, 2002

### *Evaluations of Municipal Clerks Seminar*

The feedback from the clerk's seminar was very positive and was well received by both clerks and judges. This year there will be approximately 160 slots available for training. Mr. Reaves will try to secure a large auditorium at the Georgia Center to accommodate a larger number and possibly do the training in one session. Ms. Moore discussed the state auditors report and the need to introduce this material in to the clerk's training seminar. In addition to the annual seminar, the ICJE will provide a Spanish course for the clerks, which will teach common statements and phrases for use in the court. As requested by the training council, the ICJE will also investigate the possibility of providing municipal judges with this same type of training in 2003.

### *Financial Report*

Mr. Reaves reported that \$86,250 is budgeted for this year and the current "cash on-hand" is over \$105,000. This is cash that has been collected on fees and has been placed in interest bearing CDs. He reported that they will end the fiscal year carrying over some funding from this year.

### *Update on the Training Enrollment*

Ms. Mitchem directed the council to the list of courses and the corresponding number of judges registered to attend each course. The search and seizure course is once again overfilled and contains a number of judges on the wait list. Mr. Reaves reported that there were approximately 300 judges that still needed to enroll.

The members of the training council

then discussed some of the suggested topics for training at the July course. Mr. Reaves reviewed the training from last year and stated that the "Round Robin" format had been well received. The council members discussed a variety of topics for the ICJE to present at the training course. They included:

#### General Session Topics:

- Case Law update
- Session on Department of Motor Vehicle Safety
- Tack on fees and surcharges
- DUI review and updated (no longer than three hours)
- Speaker at lunch
- Evidence

#### For Round Robin Training Sessions:

- Interpreters and the New Rule
- Speed measurement devices
- Handling under 21 offenders
- MCLE and MCJE Ethics
- Therapeutic Justice
- Community court/Mental Health court
- Commercial Drivers licenses
- Immigration Law

A list of qualified instructors was assembled by the members of the training council to assist the ICJE with this training course. The council will also provide an out of state guest speaker at the course. Upon Judge Washburn's suggestion, the training council will invite the superior court judges from the Augusta circuit to be their lunch guests at the event.

### *Training Council Education*

In an effort to better educate the members of the training council and make them more effective in their positions, Mr. Reaves has investigated the

possibility of sending the members of the training council to the National Judicial College. The following courses have been targeted as possibilities for the training council to attend:

- Traffic Issues in the 21st Century - May 5-10
  - Sentencing Motor Vehicle Law Offenders - October 20-25
- New Business

Ms. Mitchem announced that she can not register an individual judge for training until payment has been received. In recent months she has received telephone and email registrations and she has told them that she must receive the check before she can process the requests. Ms. Mitchem wants the training council to be aware of this policy and to help convey this to their colleagues.

Mr. Reaves asked the training council to consider possible locations for the July 2003 training session. He suggested Callaway Gardens or a return to Savannah. Other locations were discussed, but hotel and room costs were far too exorbitant for consideration. After some discussion, Callaway Gardens was decided upon as the best location for the event. Mr. Reaves will investigate the rates for Callaway Gardens and secure the location if possible.

### *Announcements*

Ms. Moore announced that the Bailiff's training video is finished and that it will be distributed to all judges. In addition, the AOC has put together an emergency plan for the agency that can be used as a template for their courts. This will also be sent to their courts.

# Reducing the Litany Litigation

By Judge Robert L. Whatley

Endless discussions have ensued in various meetings of the Georgia Council of Municipal Court Judges on what to include in the litany of rights required by law and how to administer them. Videos shown on mass prior to the calendar call have been one. Every effort is being made to ensure that every right is covered in detail so as not to be subject to later challenge. Now most of the questions, debates and legal sufficiency questions have been resolved. But there still are a few lingering conundrums still lurking. One of those is the query as to whether or not right of counsel exist when one is placed on probation for a very minor offense. It is established and settled that no right to counsel exist in the initial premise. Unsettled is whether a later possibility of revocation and imprisonment “relates back” to the original trail when there was no attorney.

But just as surely as old law is established, fresh law calls us back into conference to consider the ramification and fresh analysis as to constitutional limitations. Recently, two cases have given us pause for thought. These first impression cases will be considered.

Thankfully, one seems to have been resolved so as not to be included by right on the litany. Recently some attorneys have tried a new tactic. Though seeming fully resolved, judges need to be prepared to confront it if presented. Not all attorneys and judges have the time to know every recent case. Here is the issue. It may come up later in a new form.

Creative, innovative and enterprising lawyers in Georgia have tried to

forge a new tool for citizens of foreign nationals in various immigration status. In *Lopez v. State*, case S01A141, 02 FCDR 167, decided 1-14-02, a murder defendant of Mexican origin claimed a suppression motion should have been granted for the denial of his right to contact the Mexican consulate as per Article 36 of the Vienna Convention. The decision quotes the convention and provides the applicable excerpt:

The Vienna Convention on Consular Relations, April 24, 1963, 21 U.S.T.77, 596 U.N.T.S 261, 1967 WL 18349 (ratified November 24, 1969).

Article 36 (1) (b) provides:

If [an arrested foreign national] so requires the competent authorities of the receiving State [here, the United States] shall, without delay, inform the consular post of the sending State [here, Mexico]. If within its consular district a national of that state is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph.

To these recitations, the Georgia Supreme Court applied the following analysis in denying the motion to suppress:

“But in general, international treaties do not create individual rights which can be privately enforced in court proceedings. *Villegas v. State*, 273 Ga. 823, 826 (6) (546 SE2d 504) (2001). What is more assuming *arguendo* that the

Vienna Convention is an exception to that general rule, nothing in its text requires the suppression of evidence. *Id.* By its terms it does not require application of the exclusionary rule, and such a judicially-created remedy cannot be imposed absent a violation of a constitutional right *Id.* at 827 (6). Any rights created by the Vienna convention do not rise to the level of a constitutional right protected by the judicially- created remedies sought by *Lopez*. *Id.*; *United States v. Page*, 232 F3d 536, 540-541 (1) (6th Cir. 2000). In addition, *Lopez* can not show that any alleged violation of the Vienna convention had a prejudicial effect on his trial. *Id.*”

Hopefully, this is depositive of the matter and necessary inclusion on the rights litany.

Another recent decision however give cause for concern and prompt attention. Notwithstanding and regardless of the right to counsel advisement, the question proposed by *Hightower v. State* in 02 FCDR 39, decided 12-6-01 seemingly instructs us advise that if the defendant desires to proceed *pro se*, he must have an additional warning and that warning must be referenced in some notation. While it is presumed that this is the practice in major felonies, are we mandated by the instruction in the most minor cases. In the topic case, it was a DUI and the case was reversed. The court held:

“Here on the basis of the record before us, we cannot say *Hightower* was warned of the dangers of proceeding *pro se* and nevertheless made a knowing choice to represent himself.”

This instruction may very well apply to a guilty plea. Where should

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## Reducing the Litany Litigation continued

this warning be? The better practice would be on the rights waiver. But a note in the file would certainly be a back-up and proper protection.

Lastly, one must pause in caution when a jury trial is waived but later one decides on a bench trial. It is settled and a widespread practice to ask anew if the defendant is waiving a jury trial. In citing *Whitaker v. State*, 244 GA App.241, the court remanded ruling that an aggressive

“few” questions need be asked more exhaustive than the one question “do you wish to waive a jury trial?”. The decision found in case A01A2341, *Jackson v. State* 02 FC DR 467, 2-28-02, instructs as follows:

“Before accepting a waiver, it would be preferable for the trial judge to question the defendant on the record to ensure that the defendant personally has made a voluntary, knowing, and intelligent waiver

of his or her right to a jury trial. A few questions directed to the defendant by the trial judge would protect the right and help to avoid subsequent claims that the right was not personally, voluntarily, knowingly, and intelligently waived.”

In sum, the court posited that more participation is required than a simple question and “yes” answer.

These are new challenges and we must adjust and comply.

## Training Council Addresses Requests

At the most recent Municipal Courts Training Council Meeting Ms. Moore presented the list of municipal judges that have been delinquent with their training in 2001. She explained the process for notifying the judges of their delinquency and the instructions that was given to each of them. Ms. Moore stated that she was very encouraged by the decrease in the number of people that have been delinquent in their training hours.

The training council discussed the possibility of amending the municipal judges training statute to provide the council with the authority to grant an extension (for up to six months) for training in extraneous circumstances (such as illness or a family emergency) . A motion was made to ask the legislature for an amendment to the training statute to allow for a six month extension for training. The motion was seconded and passed unanimously. This issue will be further discussed by the training council at the April meeting.

The training council approved requests from two judges who would like to receive 6 hours of credit for other judicial training programs (Probate and State court) toward their municipal court training hours. Both judges agreed that they would complete their remaining six hours of training in a certified municipal judges training course. These requests were reviewed, discussed, and unanimously approved by the members of the training council. The training council also unanimously approved 12 hours of credit for a judges attendance at the Cultural Awareness for Judicial Fairness: Women of Color in the Courts which was offered to Superior Court judges.

## Award Nominations Open

*Do you have a new court program?*

*Have you started a new service, developed a training class, improved the court process, or done anything else that improves the delivery of justice to the community and the persons served by your court?*

*Or are you aware of such a program?*

If so, you may want to make a nomination for the Georgia Council of Court Administrators Court Program Awards. The nominations are now open and will be received until April 12, 2002.

Send your nominations to:

William L. Martin, III  
Clerk/Court Administrator  
Court of Appeals of Georgia  
334 State Judicial Building  
Atlanta, GA 30334  
404-656-3450/Fax 404-651-6187

**Nominations must arrive by the close of business on April 10, 2002.**



# Case Law Update

By Mickey Roberts

Look out for SB 315. Sponsored by Phil Gingrey, this bill would provide that the age at the time of violation, not the time of conviction, would govern as to when a person's license is suspended. This law is specifically aimed at under 21 suspects; wonder what Gingrey could do if he had to pick on someone his own age?

1. Suspended License: Defendant was charged with driving on a license suspended for failure to appear; service date not placed on the UTC; charges should have been dismissed, even though officer arrested defendant on a warrant. *Mobley v. State* A01A2081 (12/14/01).

2. Field Sobriety Testimony: DUI officer can testify that all six clues on HGN indicates a person's blood alcohol more than likely over .10 grams. *Kirkland v. State* A01A1906 (1/24/02).

3. Implied Consent: Intox test excluded because officer mislead defendant at scene into believing he could speak to a lawyer prior to breath test. *State v. Bogar* A01A1651 (1/24/02).

Defendant's request to go to a hospital 25 miles away was an unreasonable request, and therefore officer was justified in refusing to accommodate the request. *Hendrix v. State* A01A2175 (12/10/01).

4. Search/Seizure: After issuing Whitlow a warning for failure to maintain lane, officer asked Rogers for consent to search car; Court once again reiterates that nervousness plus driving a rental car does not add up to reasonable suspicion of criminal activ-

ity. *State v. Whitlow* A02A0298 (1/4/02).

5. Uniform Traffic Citation: A uniform traffic citation may only be used as an accusation for traffic cases, and cannot be amended. *Shaver v. Peachtree City* A01A2500 (12/3/01).

6. Venue/Jurisdiction: A police officer has the authority to arrest a person for a traffic offense committed in his presence, regardless of territorial limitations. *State v. Hoover* A01A1698 (12/19/01).

\*\*\*DMVS Alert: If you have an under 21 client license suspended, make sure the DMVS either has the plastic

license, or a lost license affidavit. You do this by making the court serve your client with notice of suspension, and either attaching the plastic copy or having client do a Sworn "Lost License Affidavit." DMVS does not start the suspension until it has either of the above. Look at OCGA § 40-5-61. "No period of suspension or revocation shall begin until license is surrendered to department or a court. If license is lost, period of suspension starts on date set forth in a sworn affidavit."

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## Traffic Law Update

By Mickey Roberts

### **Important News for Teenage Drivers!!**

The new teen driving law went into effect on January 1, 2002, and in particular affects 16-17 year olds. 16 and 17 year olds hold a Class D license. This type of license has the following restrictions:

1. During the first 6 months, a Class D holder cannot have a passenger who is not an immediate family member.

2. After 6 months, a Class D holder cannot have more than 3 passengers under 21 unless they are immediate family.

3. Class D holders cannot drive between 12 midnight and 6 a.m. **NO EXCEPTIONS!**

4. Any Class D holder who accumulates 4 or more points during a 12 month period has the license suspended for a minimum 6 months;

5. Once reaching age 18 Class D holder can apply for a Class C license only if they have held a valid D license for 12 months prior to such application.

Automatic license suspension for under 21: DUI, leaving scene of accident, racing, fleeing, reckless driving, possession of alcohol while driving, attempting to purchase alcohol, possession of fictitious license, and any offense for which 4 or more points are assessed (speeding 24 miles over limit, passing school bus, aggressive driving); and in addition for 16-17 year olds, 2 or more moving violations in a consecutive 12 month period. Show your teens this and ask them if they really know how easy it is for them to lose their license.

## Things to Make You Think

What is the difference between a slim chance and a fat chance?

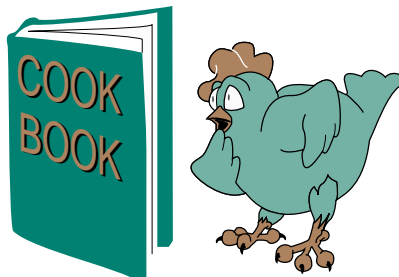
If horrific means horrible, does terrific mean terrible?

If lawyers are disbarred and clergymen defrocked, doesn't it follow that electricians can be delighted, musicians denoted, cowboys deranged, models deposed, tree surgeons debarked and dry cleaners depressed?

Why do croutons come in airtight packages? It's just stale bread to begin with.

When cheese gets its picture taken, what does it say?

"I am" is reportedly the shortest sentence in the English language. Could it be that "I do" is the longest sentence?



What do chickens think we taste like?

If you choke a Smurf, what color does it turn?

Why doesn't glue stick to the inside of the bottle?

Have you ever imagined a world without hypothetical situation

Why didn't Noah swat those two mosquitoes?

If you are driving at the speed of light and you turn your headlights on, what happens?

Why do they put Braille dots on the keypad of a drive-up ATM?

If con is the opposite of pro, is Congress the opposite of progress?

## Upcoming Council of Municipal Courts Judges Meetings

	Location	Date	Time
Business Meeting	Smarr Electrical Cooperative Center	April 12, 2002	9:00 a.m.
Training Council Meeting	Smarr Electrical Cooperative Center	April 12, 2002	1:00 p.m.
3rd Annual Municipal Judges Golf Tournament!!!!	Augusta, GA (Course to be Determined)	July 7, 2002	Time TBA
Business Meeting (in conjunction with certification course)	Radisson Hotel, Augusta, GA	July 9, 2002	Time TBA
Training Council Meeting (in conjunction with certification course)	Radisson Hotel, Augusta, GA	July 9, 2002	Time TBA

## 2002 Calendar of Training Courses

TITLE	CREDIT	LOCATION	DATES
Faculty Training	12 Hour	Athens, Georgia Center	May 15 - 17
Survey Update	12 Hour	Augusta, Radisson	July 8 - 9
Survey Update	12 Hour	Augusta, Radisson	July 9 - 10
Domestic Violence (CLOSED)	12 Hour	Americus, Windsor	July 24 - 26
Basic - Summer	20 Hour	Athens, Georgia Center	September 4 - 6
Judicial Computers	12 Hour	Athens, Georgia Center	September 19 - 20
Search & Seizure (CLOSED)	12 Hour	Jekyll Island, JI Club Hotel	October 16 - 18
Judging & Humanities	12 Hour	Athens, Georgia Center	November 4 - 5
NHTSA/ABA Traffic Court Technology	15 Hour	Atlanta, Renaissance Downtown	November 7 - 9

To Register for a training course, contact Kathy Mitchem, with the Institute of Continuing Judicial Education, at (706) 542-7402.

# Why Lawyers Are Insane

By Anonymous

Dear Client:

After a few months of appearing near the bottom of trial calendars, we are finally number one on a two week trial calendar!!! The Court will take a short case ahead of ours, but there will be more than enough time to try our case. Because a couple of witnesses will be out of town, we have agreed to take their videotaped depositions to show to the jury, since the witness' testimony wouldn't be all that great if we kept them away from the beach with a subpoena. We have notified all other witnesses and they will be available, more or less.

Dear Client:

We have been informed that the Court will not hear our case as previously announced. They don't know when it will be tried. By the way, please send us an additional \$1000.00 for the videotaped depositions.

Dear Client:

We have been informed that our case will definitely be on the trial calendar during the second week of next month. Please be prepared to appear at any time that week and give me a call so that we can schedule a meeting to prepare for trial. All of our witnesses can be available for

trial, so we will not be using the videotaped depositions that we took last month.

Dear Client:

Today, they finally released the trial calendar we were supposed to be on for next week. We are not on it. That means we will not be going to trial. I enjoyed our 4 hour meeting last week. The witnesses also enjoyed coming by the office, as well.

Dear Client:

Thank you for your patience regarding the trial calendar the last year. At the calendar call today, we were told that chances are remote for our case being reached this week and next week, but we are still on one hour call for the next two weeks. Also, the calendar clerk started a rumor that our case may be on a back up calendar for the last week of the month, but she is not sure that they will have such a calendar. The case will be on a two week calendar next month, but they don't know which weeks, yet. We will keep you posted. Several of our witnesses have become irritable when I call. I don't know why.

Dear Client:

I have good news and bad news. The good news is that we are scheduled to the first case out on Monday morning. The bad news is that this

letter is being written to you from the Happy Acres Mental Hospital where I have been joined by opposing counsel and most of our witnesses. I will not be available for trial. Maybe later. We have reserved a space for you here with us. You can expect a couple of big guys in white coats to bring you here shortly. Looking forward to seeing you with the rest of the gang.

Yours truly,

Your Lawyer.

P.S. You have used up your retainer. Please bring lots of cash.

## Do We Have Your Correct Information?

*The Council of Municipal Court Judges strives to keep the most updated information concerning judges and clerks of court.*

*If you have not been receiving our publications, please call the Judicial Liaison Division of the Administrative Office of the Courts at 404-656-5171*

## Correction

Please make note of the following changes in your Council of Municipal Court Judges Committee Directory:

Pg. 5: Judge James Watkins is no longer the co-chair of the Golf Tournament Committee; Judge James T. Payne's phone number and fax should read 770-974-6911/Fax 770-974-0949.

## Ideas? Comments? Responses?

Please send in any and all contributions for the newsletter to:

Margaret Washburn, editor  
mwashbur@bellsouth.net  
770-963-1105 / 770-963-2828 (Fax)  
303 Scenic Highway • Lawrenceville, GA 30045

**Third  
Annual**

# Municipal Judges Golf Tournament & Round Robin Tennis Tournament



**Augusta, GA • July 7, 2002**

*(Course to be Determined)*



**For Golf Tournament**

**Details Call:**

**Judge Jim Payne**

**770-974-6911**

**For Tennis Tournament**

**Details Email Judge**

**Washburn at**

**[mwashbur@bellsouth.net](mailto:mwashbur@bellsouth.net)**

**Reminder!**

**Survey Update Course Held in Augusta (not Savannah)**

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