



MUNICIPAL COURT

Judges Bulletin

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President's Corner



Viviane Ernestes

As my last message to you, I would like to thank all of the folks who make this entity worthwhile for its members. Without Charles Barrett and Bill Coolidge, the work of this Council would not get done. Their hard work and steadfast commitment to this organization have been invaluable. Without the words of advice and accurate financial capabilities from the famous Frost Ward, we would be "destitute" so to speak. A quiet thank you to our ever present secretary, Kathryn Gerhardt, for keeping the minutes so faithfully.

A number of people serve tirelessly every year and always provide a helping hand when needed. Without Margaret Washburn, there would be no newsletter and most of us would not stay abreast of the on-going activities of the Council. This is a thankless job and I truly appreciate the time and effort that Margaret puts into each of these editions.

The Training Council is always a continuous time commitment and I know that we will enjoy the summer seminar and fruits of the Training Council's labor. A special thanks to Dennis Still, Robert Whatley, Roger Rozen, Margaret Washburn and Mike

Cielinski for all their efforts throughout the year. Without Rich Reaves and Kathy Mitchem, there would be no training, no classes and no instructors. They give new meaning to the term "indispensable."

Marla Moore has been a fantastic sounding board for me and her stellar administrative skills have been much appreciated. We know that the agendas get prepared, the minutes typed, the surveys distributed, the telephone calls handled, and we always rely on our professional staff, Bernadette Smith and LaShawn Murphy, to make it all look easy and to take care of all the details- big and small. Thank you.

David Pierce, with your consistent annual help, the nominating process now moves quite smoothly. Jim Pace, single handedly organizes the golf tournament each and every year. We forget how much time and effort that takes and thank you for all of your efforts in this regard.

A personal thank you to Maurice Hilliard and Ed Carriere. Maurice encouraged me to become involved at the outset and his sound advice is always just a telephone call away. Ed knows what his guidance, profound wisdom and friendship mean to me.

Thank you for all your hard work, and a wonderful year. See you at St. Simons.

Just One Good Lawyer

The public deems a lesser obligation of citizenship when funding the expense of guarding, protecting, preserving and securing the rights of those committing horrific crimes.

It has not quite reached the stage in Georgia, but counties nationwide have had the unpleasant duty of adding special assessments to tax bills for just one death penalty trial.

Indeed, some of the smaller counties' budgets can be totally consumed by one such trial. For years in Georgia, this expense has been saved by providing a piecemeal, patchwork, sloppy and constitutionally infirm way of doing what our founding fathers say we must.

Payday someday has arrived.

As in water, air, pollution, prisons and the rights of the poor and disabled, the position has been, as expressed by one legislator, that we will only act when a federal judge says we must – then it can cost billions.

The Georgia Legislature saw this coming and passed without funding the Indigent Defense Act. They saw

it almost just in time. But right in the negotiations, the United States Supreme Court handed down Alabama v. Shelton which proclaimed that “almost in time” means “right now.”

Now we must hasten to fund the bill, set up the bureaucracy and train the lawyers. Because of this time lapse, many will either slip by due to the delay or have to face punishment they do not legally deserve. We saw it coming and did little.

Now the piper is coming to collect his due.

In neighboring Paulding County, a higher court reversed a conviction of a public defender pleading one guilty because he said, “I do not have time to investigate all these cases. I could not stomach the evidence in this case.” He had previously pleaded 400 others guilty for the same reasons.

One may ask why the Timothy McVeigh Trial lasted three weeks and the O.J. Simpson trial lasted one year. In the first trial, the public defender after spending millions asked for more for foreign investiga-

tive travel. The judge said “no” to any more public money. The defense rested. In the second trial, the attorney asked for more from private pocketbooks. The trial went on.

Recently in north Georgia, a football player was accused of a sexual act with a girl three years younger, a crime that carried either a one-year misdemeanor sentence or a ten-year mandatory one. The jury opted for ten years. An Atlanta lawyer read about it and volunteered his 11-member law firm to fight the sentence that incensed him.

With all the money we must now pay for our past inaction, we well could have paid for each poor person to have 11 lawyers. But that is not what our forefathers demanded. Just one good one would have suited just fine.

Editorial Update:

An Action has been filed to reverse the ruling and is now pending.

This is a reproduction of a weekly column for the Douglas County- Sentinel by Judge Robert L. Whatley of Lithia Springs. He is a judge for the city of Austell.

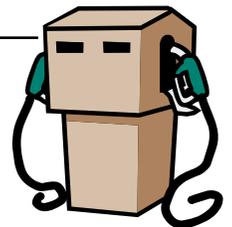
In Our Thoughts

We would like to keep our Editor, Judge Margaret Washburn, and her family in our thoughts as they mourn the loss of her father.

We would also like to keep ICJE, Executive Director, Richard D. Reaves and his family in our thoughts as they mourn the passing of his mother-in-law.

These two individuals do so much for the Council of Municipal Court Judges that we would like to keep them uplifted in their time of sorrow.

Makes one think, and puts things in perspective...



Diet Snapple 16 oz	\$1.29	.....	\$10.32/gallon
Vick's NyQuil 6 oz	\$8.35	.....	\$178.13/gallon
Pepto Bismol 4 oz	\$3.85	.....	\$123.20/gallon
Whiteout 7 oz	\$1.39	.....	\$25.42/gallon
Scope 1.5 oz	\$0.99	.....	\$84.48/gallon

So, the next time you're at the pump, be glad your car doesn't run on water, Scope, or Whiteout, or Heaven forbid, PEPTO BISMOL or NYQUIL!!!!

Just a little humor to help ease the pain of your next trip to the pump!

Professionalism in the Principle-Centered Law Practice

By: Presiding Judge G. Alan Blackburn
Georgia Court of Appeals

Whatever happened to ethics?

In a recent address, Bernie Marcus, the founder of Home Depot, raised the above question in response to an inquiry about Enron and other corporate business practices. In the context of his address, Bernie was referring to the personal ethics and moral principles by which corporate leaders are guided, not those rules and regulations which govern commercial practices. Unlike the practice of law, business is generally limited only by a determi-

nation of what is legal, not what is ethical or moral.

Bernie related that for years he was bombarded by accountants and business consultants with Enron-type accounting procedures and schemes which were guaranteed to greatly improve the financial picture of Home Depot. He was assured that the schemes were perfectly legal, and that they were employed by many major companies.

In analyzing these proposals, Bernie looked not only to opinions of their legality, but he looked to his own moral compass for direction. He did not understand how you

could improve the financial appearance of Home Depot when your scheme did not increase its revenues, reduce its costs, or improve the efficiency of its work force. In his own words, "it didn't pass the smell test." Bernie Marcus rejected the suggested schemes based on the application of his own principles, not the limited rules that control corporate practices. He is a man of principle, who, before his retirement, ran a principle-centered business.

This is the first article of four that will be presented in upcoming newsletters.

Case Law Update

By Mickey Roberts
770-923-4948

ARTICULABLE SUSPICION/ ARREST

St. v. Swords A02A2441 (12/16/02) Swords was stopped because officer could not see whether he had a valid tag; as the officer approached Swords car, the officer was able to determine that Swords had a valid temporary drive out tag; however, officer detained Swords, and subsequently arrested him for DUI; HELD: Once officer determined that Swords had a valid tag, the subsequent detention was illegal.

Hutto v. St. A02A2382(1/15/03) Hutto's motorcycle was stopped on the side of 316 when officer approached. HELD: a police officer may approach a citizen, ask for identification, and freely question citizen without any basis as long as citizen is free to leave.

St. v. Batty A02A2321(2/4/03) Court affirmed trial court's finding of lack of probable cause for arrest. Although the officer testified that Batty made an improper turn, that she admitted to drinking earlier, and tested positive on the alco sensor, she apparently passed several field tests. Since there was no evidence of impairment such as loss of balance, slurred speech, or bloodshot eyes, the officer did not have probable cause to arrest.

St. v. Morgan A03A237(3/13/03) Trial court's suppression of traffic stop affirmed; Morgan was stopped for making a right hand turn into the left lane of two eastbound lanes of Hwy 278, then immediately got into a left turn lane to turn onto Hazelbrand Rd, approx 100 yards from where he entered Hwy 278.; the turn was reasonable and the pc for stop was unreasonable.

CHEMICAL TESTING

Dougherty v. St. A02A2148 (2/12/03) Dougherty argued that the Division of Forensic Sciences(DFS) rules did meet the requirement under 40-6-392 that the DFS promulgate satisfactory techniques for chemical testing. The Court held that since testing is done at the "directive" of the DFS director, the requirement has been met. Note: The Court mentions that Dougherty provided no evidence that additional rules are necessary to ensure fair and accurate testing.

Naik v. St. A02A2074(1/29/03) Trial court suppressed breath test because intox operator failed to show test was "performed according to methods approved by DFS/GBI, as required by OCGA § 40-6-392". HELD: It is not necessary that operator testify in his opinion that the test was performed according to methods

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Case Law Update *continued*

approved by DFS/GBI. Apparently the only testimony needed is that the operator had a permit, the machine appeared to have all of its parts attached and in good working order, and machine had been tested periodically.

Scara v. St. A03A0022(1/15/03) Scara argued that because State did not admit approved methods at hearing on motion to suppress, State could not meet its burden for admissibility. HELD: Testimony by officer that test was performed using methods approved by GBI/DFS, and that officer was qualified to perform test, together with printout of test, was sufficient for admissibility. Any deviation from DFS rules goes to weight of evidence, not admissibility.

CONSTITUTIONAL QUESTIONS

Slinkard v. St. A02A2465 (2/3/03) UTC, Motion to Quash Defendant made an oral motion to quash a UTC which listed the offense as 40-6-391(a1-5); Slinkard complained that the UTC charged him with multiple offenses; HELD: The UTC was sufficient to place Slinkard on notice that he was charged with any of the numerous ways of being DUI; further, it appears that Slinkard should have filed a demurrer objecting to the form of the UTC well before trial.

Simile v. St. A02A2053(1/9/03) Being placed on disciplinary probation by GA Tech because of a DUI arrest is remedial, not punishment in nature, and therefore does not constitute double jeopardy.

King v. St. S02A1329(1/27/03) State does not have to provide notice to Defendant before It obtained Defendant's medical records pursuant to a search warrant.

Geng v. St. S02A1313 (3/10/03) Traffic Court in city of Atlanta must give jury trials to defendants in speeding cases.

EVIDENCE

Viau v. St. A02A2112(2/21/03) Expert witness testimony properly excluded by Court; expert attempted to testify that defendant's temperature might affect Intox reading; as there was no evidence of Defendant's temperature, experts testimony not relevant.

Camp v. St. A02A1865(1/15/03) a breath test result is irrelevant in a DUI less safe case, although introduction of such test is "harmless error."

Walczak v. St. A02A2449 (1/9/03)

Evidence as to the manner of driving may be taken into account when there is evidence that defendant is DUI for the purpose of determining whether or not his manner of driving shows him to have been affected by the intoxicant to the extent that he drives less safely and carefully than he might otherwise have done.

JURY SELECTION

***Foster v. St. A02A1125(11/26/02)** Trial court's refusal to strike juror for cause was error. On voir dire, juror had indicated she thought DUI laws were not strict enough. Juror admitted she would not be able to be a fair juror because of Defendant's prior DUIs. "A trial court should err on the side of caution by dismissing, **rather than rehabilitating**, biased jurors."

ROADBLOCKS

Hobbs v. St. A03A530(2/19/03) This roadblock was held to be legal, even though the supervisor who implemented the roadblock was also the officer who stopped and arrested Hobbs.

Ross v. St. A02A2139(9/20/02) Roadblock held valid where supervisor was present at roadblock, but was not there as a field officer.

SEARCH AND SEIZURE

St. v. Cooper A03A12(2/27/03) A passenger does have standing to challenge his detention resulting from an illegal stop.

St. v. Habib A02A2130 (3/13/03) Habib was stopped for a seatbelt violation; Because there was no articulable suspicion to detain Habib and ask for consent to search his car, trial court was correct in suppressing the search. The only evidence presented for articulable suspicion was "dry mouth," which can be caused by other things besides marijuana.

SPEEDING

Jones v. St. A02A2118(11/12/02) Jones was charged with speeding in violation of 40-6-181; on the UTC the officer alleged Jones was traveling 100 mph, but at trial evidence was that officer visually estimated Jones' speed at 95 MPH. The UTC reference to speed was only a notice of evidence, NOT an allegation of the citation.

VENUE/JURISDICTION

Peachtree City v. Shaver S02G702(3/10/03) Supreme Court reverses Court of Appeals; a UTC CAN be used for a non moving offense.

Robinson v. St. A03A388 (3/11/03) Robinson was convicted of DUI in Jonesboro Municipal Court. Venue must be proven in every case; in this case, the State failed to prove the city of Jonesboro was in Clayton County.

When to Refer a Simple Will

Once we are finally licensed to practice law, one of the first questions we're asked by friends and family is, "Will you write my will?" Many of us think, "I took two semesters of wills and trusts, how difficult can it be"? So starts the practice of accepting clients in need of simple wills. The following are areas that you might want to consider when making the decision of whether to go ahead and use those great form books or whether it's time to refer the matter on to someone who is not spending time in the courtroom, but would rather read up on the latest decisions in family limited partnerships.

Estate Tax. Some attorneys practicing family law and litigation draw the line on whether to draft a will with the question of whether the client has assets in excess of the amount that is subject to estate taxes. Do you know what the amount is? Do you know what it is increasing to and by how much? Do you know what is included in the estate to calculate the amount? If not, you might not want to be drafting wills at all. The applicable credit amount (formerly known as the unified credit) is currently \$1

million. It is increasing to \$1.5 million next year, to \$3.5 million in 2009, goes away entirely in 2010 and comes back to \$1 million in 2011 (that is, if the law isn't changed between now and then). Among other things, the face value of life insurance, all retirement accounts and the fair market value of all property are included when calculating the amount subject to estate tax.

Special Needs. Ask your client about their children and if applicable, grandchildren. Do any of them require special care or have developmental or learning disabilities? If so, a special needs trust might be warranted. This can be a very technical and specialized area as decisions are made that can affect the child's future eligibility for state and federal aid. Even some experienced estate planning lawyers refer these cases to other attorneys who focus on this highly specialized area.

Second Marriages. I was recently asked by a commercial real estate attorney whether there was anything special she should do for a couple with children from a previous mar-

riage who needed a simple will. After I suggested a QTIP and she asked me what that was, she decided to go ahead and refer the couple to me. A Qualified Terminable Interest Property Trust is used to provide a source of income for the spouse of a second marriage, but also protect the assets for the children from the first marriage. It is a very useful tool and quite effective when used properly.

Powers of Attorney and Living Will. Do you include these documents as a matter of course when preparing wills? If not, you might want to reconsider. Estate planners always ensure that their clients have a durable financial power of attorney, health care power of attorney and living will (or combined health care proxy) in place, along with wills. These documents are maybe more important to the client than the will, after all, they are still alive when these documents might be required!

Please contact Mary B. Galardi, Mary B. Galardi, P.C., (770) 416-0033; mary@galardilaw.com; www.galardilaw.com for further information.

George Phillips of Meridian Mississippi was going up to bed when his wife told him that he'd left the light on in the garden shed, which she could see from the bedroom window.

George opened the back door to go turn off the light but saw that there were people in the shed stealing things.

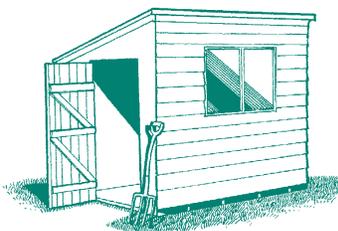
He phoned the police, who asked "Is someone in your house?" and he said no.

Then they said that all patrols were busy, and that he should simply lock his door and an officer would

be along when available.

George said, "Okay," hung up, counted to 30, and phoned the police again.

"Hello I just called you a few sec-



onds ago because there were people in my shed. Well, you don't have to

worry about them now cause I've just shot them all." Then he hung up.

Within five minutes three police cars, an Armed Response unit, and an ambulance showed up at the Phillips residence. Of course, the police caught the burglars red-handed.

One of the Policemen said to George: "I thought you said that you'd shot them!"

George said, "I thought you said there was nobody available!"

(True Story) I LOVE IT.

Suspended Licenses

By: Margaret Gettle Washburn
Duluth, Sugar Hill and Buford

I was buying liquor so could not afford to pay my child support and did not get busted for DUI, so how can my license still be suspended?"

Dear Driver, yes, your license may be and can be suspended for non-driving and non-motorist related offenses. Quite often, a driver's license will be suspended or revoked when the holder is found guilty of certain offenses involving the use of a motor vehicle. However, where a statute provides that one's license can be suspended or revoked for what appears to be a reason unrelated to the use of a motor vehicle, constitutional concerns such as due process and equal protection often arise since the statute may be viewed as imposing an arbitrary penalty of license suspension for unrelated proscribed conduct. In *Quiller v Bowman* (1993, Ga) 425 SE2d 641, the court upheld the validity of a statute providing for the automatic suspension of the driver's license of anyone convicted of possession of a controlled substance or marijuana, finding that the law was reasonably related to the legislative goals of deterring drug use, deterring distribution and transportation of drugs, and promoting safe driving.

There are many statutes mandating the suspension or revocation of drivers' licenses for reasons which seem unrelated to the use of motor vehicles. One such statute is OCGA § 19-11-9.3., entitled: "Certified state-wide list of persons not in compliance with order for child support; licensing agencies authorized to suspend or deny licenses for persons whose

names are on list; procedure." This code section provides that the Department of Human Resources is the agency that is responsible for enforcing orders for child support pursuant to this article. DHR maintains a "Certified list" of the names of support obligors found to be not in compliance with an order for child support in a case being enforced under this article. Compliance, for the purposes of this code section means, as set forth in a court order, administrative order, or contempt order for child support, the obligor is not more than 60 calendar days in arrears in making payments in full for current support, periodic payments on a support arrearage, or periodic payments on a reimbursement for public assistance.

When an "Applicant" applies for the issuance or renewal of a license, that is a certificate, permit, registration, or any other authorization issued by any licensing entity that allows a person to operate a motor vehicle or to engage in a profession, business, or occupation, then the "Licensing entity," which is any state agency, department, or board of this state which issues or renews any license, certificate, permit, or registration to authorize a person to drive a motor vehicle, or to engage in a profession, business, or occupation, is to check the state-wide certified list of those persons included in any case enforced under this article for whom an order for child support has been rendered and who are not in compliance with that order. The certified list must be updated on a monthly basis. DHR is to submit to each licensing entity a certified list with the name, social security number, if known, date of birth, and last known address of each person on the list.

The code section provides procedures for notice to the delinquent obligor of the request that the licensing entities withhold issuance or renewal of the license, or suspend the license. The section also provides for procedures whereby the obligor may come into compliance with the support order or request a hearing. If these procedures are not followed, then DHR will send notice to the licensing entities requesting that the licenses be suspended or the licensure applications be denied. Each licensing entity is to notify the delinquent obligor by certified mail or statutory overnight delivery of the date that the license has been denied or suspended. Notwithstanding any hearing requirements for suspension and denials within each licensing entity, the hearing and appeal procedures outlined in this Code section shall be the only hearing required to suspend a license or deny the issuance or renewal of a license under this Code section.

When the obligor is determined to be in compliance with an order for child support or has prevailed at a hearing, the agency mails to the delinquent obligor and the appropriate licensing entity a notice of release stating such determination. The receipt of a notice of release serves to notify the delinquent obligor and the licensing entity that, for the purpose of this Code section, he or she is in compliance with an order for child support, and the licensing entity shall promptly thereafter issue or reinstate the license, unless the agency, pursuant to subsection (b) of this Code section, certifies subsequent to the issuance of a notice of release that the delinquent obligor is once again not in compliance with an order for child

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Suspended Licenses *continued*

support.

In the *Department of Human Resources v. West*, 1999, 241 Ga.App. 677, 527 S.E.2d 280; 42 USCA §§ 1983, 1988; OCGA § 19-11-9.3, the Court held that the motorist whose driver's license was suspended for failing to pay child support arrearages was not entitled to award of § 1983 attorney fees in his action against DHR, seeking declaration that statute upon which suspension was based was unconstitutional, and issuance of order to DHR to withdraw and vacate its request to Department of Public Safety suspending license. The Court found that the trial court ordered that if any licensee made a prima facie showing that notice by mail of the suspension was not received, within 45 days after requested hearing, that the pending status of license would not be changed, and, if a hearing was not held within 45 days, that the revoked license would be reinstated. As such, the trial court's ruling did not affect the status of the motorist's license, and DHR was not required to vacate its suspension request.

This has been the holding in other states as well. In the case of *State, Dept. of Revenue, Child Support Enforcement Div. v. Beans*, 965 P.2d 725 (Alaska 1998), the court held that a divorced parent's driver's license was properly suspended due to the nonpayment of child support. The court found that the Child Support Enforcement Division's (CSED) efforts to suspend driver's license of delinquent child support obligor under statute governing such action was not arbitrary or irrational in violation of obligor's substantive due process rights under the Alaska Constitution. Further, the California Appellate Court held that the equal protection rights of the father obligor

were not violated by suspension of his driver's license as mechanism of child support enforcement on theory that law deprived him of his ability to make a living, and therefore caused him to be poor, as the law was rationally related to the legitimate governmental purpose of enforcing child support orders and did not in any event prohibit father from working, but merely limited his modes of transportation. U.S.C.A. Const Amend 14; West's Ann. Cal. Welf. & Inst. Code § 11350.6 (Repealed). *Tolces v. Trask*, 76 Cal. App. 4th 285, 90 Cal. Rptr. 2d 294 (4th Dist. 1999). However, the granting of stay of suspension of driver's license for noncustodial parent's nonpayment of child support and its terms are a matter of discretion for the district court. MCA 40-5-710. In re Child Support of Mason, 1998 MT 192, 964 P.2d 743 (Mont. 1998). The New York Court, in *Kennedy v. Kennedy* found that the "Statute authorizing a court to order the suspension of a child support obligor's driving privileges to enforce payment of arrears does not apply if no support order is in effect, as the statute refers only to 'current support.'" McKinney's Family Court Act § 458-a(a). *Kennedy v. Kennedy*, 674 N.Y.S.2d 95 (App. Div. 2d Dep't 1998).

The correlating code section is § 40-5-54.1. entitled: Suspension or denial of license for failure to comply with order of child support. This section provides that DHR is responsible for enforcing orders for child support pursuant to this article. This section requires compliance with any court order, administrative order, or contempt order for child support. DHR shall suspend, as provided in Code Sections 19-6-28.1 and 19-11-9.3, the license of any driver upon receiv-

ing a record from the agency or a court of competent jurisdiction stating that such driver is not in compliance with an order for child support.

The suspension or denial of an application for issuance or renewal of a license shall be for an indefinite period and until such person shall provide proof of compliance with an order for child support. Such person's license shall be reinstated if the person submits proof of compliance with an order for child support from the agency or court of competent jurisdiction and pays a restoration fee of \$35.00 or \$25.00 when such reinstatement is processed by mail for the return of his or her license. "Proof of compliance" means the notice of release issued by the agency or court of competent jurisdiction stating that the delinquent obligor is in compliance with an order for child support, as per OCGA §19-11-9.3. Any person who receives notice from the agency that his or her registration is subject to denial or suspension may request a hearing and appeal as provided for in Code Section 19-6-28.1 or as provided in § 19-11-9.3. Again, notwithstanding any provisions of law to the contrary, the hearings and appeal procedures provided for in such Code sections shall be the only such procedures required for purposes of this Code section. However, this code section provides that any person whose driver's license has been suspended pursuant to this Code section may apply to the department for a restricted driving permit as provided in Code Section 40-5-71.

Minutes from Spring Council Meeting

The spring meeting of the Georgia Council of Municipal Court Judges was held on May 2, 2003, at the Renaissance Waverly Hotel in Atlanta, Georgia. The meeting was called to order by President Viviane Ernstes.

The first order of business was the consideration of the minutes of the winter meeting held in Atlanta on January 31, 2003. The minutes were approved as submitted.

Judge Ernstes then gave a brief president's report. She advised that legislation to allow municipal courts to sponsor pre-trial diversion programs had been introduced but was held up because of the flag issue. This legislation will be introduced again next year. She also announced that the Judicial Council will meet on June 11 and that Judge Coolidge will attend that meeting.

Judge Ward reported that as of March 31, 2003, the Council had \$27,932.69 in its non-state appropriated funds account. He advised that dues notices for the next fiscal year would be sent out some time after July 1st. Bernadette Smith of the AOC reported that \$14,020.71 remained in the state appropriated funds account as of March 31, 2003, to be used during the remainder of the 2003 fiscal year.

The following committee reports were next:

(1) Legislation: Judge Barrett advised that of the three pieces of legislation the Council had wanted to submit (pre-trial diversion, daily jail service fee, and senior municipal judges), only one had been submitted - the pre-trial diversion bill. As already had been noted by Judge Ernstes, that bill did not go through but should next year because it is not controversial.

(2) Bench Book: Judge Cielinski advised that the Bench Book was out and was being mailed to all municipal court judges.

(3) Nominating: Marla Moore reported for Judge Pierce that he is now seeking nominations for officers for next year and would like anyone interested in serving to contact either him or Ms. Moore.

Marla Moore gave the report from the AOC. She noted that the 2004 budget is not yet complete because of cuts in appropriations for funds allocated for the courts. Even though the AOC did take some cuts, Ms. Moore announced that a new project was funded to enable the AOC to implement training programs. The first such program will be training for municipal court clerks on the proper calculation of fines and fees.

Judge Cielinski gave a brief report on the activities of the Municipal Court Judges Training Council. He advised that the Georgia Crime Information Center (GCIC) wants judges to receive GCI training every two years. The training council will try to incorporate this as part of the regular judges' training program.

Judge Ward reported on the status of the County and Municipal Probation Advisory Council. He noted that the municipal courts are the biggest users of private probation services.

Judge Coolidge reported on the work of the Court Forms Committee. He noted that the requirements for a valid waiver of counsel and jury trial get more complicated. Recent cases indicate that more is required if there is a trial than if a plea is entered. The committee thus proposes a two-stage waiver form - one for arraignment and one for trial. The committee still needs to draft language for possible

mitigating circumstances and possible defenses that case law indicates the defendant must be advised of at arraignment. This will be worked on this summer and hopefully a form will be ready for review at the traffic court seminar in August. Judge Coolidge pointed out that, regardless of the form used, there is no way to create an adequate record for the appellate courts without a transcript as not only must a waiver be signed but it must be supplemented with follow up questions on the record.

Judge Coolidge also gave a report on the Georgia Courts Automation Commission (GCAC). The Commission had its budget cut and, as a consequence, is not funded well enough. GCAC has developed a program to allow courts to report fees directly but funding is insufficient to pay for installation of the program in municipal courts. Judge Coolidge proposed that the Municipal Court Judges Council authorize spending the excess funds in its public funds account to install this program in as many municipal courts as possible with the order of installation to be based on the order in which courts have signed up on a waiting list for installation. Judge Edwards so

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Congratulations...

Judge Joe Booth, formerly the Judge of the Municipal Court of Jefferson, was appointed by Gov. Roy Barnes to the Superior Court of Barrow County and took the bench on January 1, 2003. We are certainly proud of one of our former municipal court judges. He was replaced by Robert Alexander, Judge Booth's former partner. We welcome Judge Alexander

Municipal Court Clerks Training

OCTOBER 6-8, 2003
GEORGIA CENTER, ATHENS

OCTOBER 6, 2003

9:00-10:00 am

WORKPLACE ISSUES: REPORT
FROM EQUALITY COMMISSION
Ms. Marla Moore

10:00-11:00

TYPES OF BONDS AND DEALING
WITH BONDING COMPANIES
Panel: Ms. Mary Hamby, Ms. Jane
Gaguski, Ms. Essie West

noon-1:00

Planned Luncheon

1:00-5:00

DMVS PRACTICES UPDATE
Mr. Darien Mize
Ms. Jeanette Williams

OCTOBER 7, 2003

9:00-12:00

OVERVIEW OF ETHICS
& PROFESSIONALISM

PUBLIC TRUST: Perception Vs.
Reality, Hon. Clinton Deveaux

DEALING WITH THE MEDIA:
What Can You Tell Them
Ms. Libby Blackwell, and a Reporter

GIVING LEGAL ADVICE
CJC CODE PROVISIONS
APPLICABLE TO CLERKS
Atty. Richard D. Reaves

noon-1:00

Planned Luncheon

1:00-4:00

GCIC DATABASES: ACCESSING
FOR INFORMATION AND SUB-
MITTING DATA - GCIC Personnel

OCTOBER 8, 2003

(Optional Session for 30 Clerks)

9:00-4:00

FEES AND FINES
Mr. Kevin Tolmich, AOC

12:00-1:00

Planned Lunch

FYI: Indigent Defense

If you are interested in reading about indigent defense in Georgia you may do so by logging onto www.georgiacourts.org and going into Indigent Defense Commission Reports. You will be able to view the "Status of Indigent Defense in Georgia: A Study from the Chief Justice's Commission on Indigent Defense Part II: Analysis of Implementing *Alabama v. Shelton* in Georgia" as well as other related reports.

Minutes from Spring Council Meeting continued

moved and Judge Williams seconded the motion. After discussion, the motion was approved.

Marla Moore advised that her office was working on a Traffic Listserv and asked that traffic court judges provide their e-mail addresses to put on the list. She brought out that this could be a good resource for judges as they could use it to solicit information or ask questions and get responses from others on the list.

Ms. Moore also advised that she had been contacted by a private probation company interested in setting up indigent defense programs for courts. She thought it may be helpful to some courts because of the requirement that all courts have indi-

gent defense programs in effect by 2005. The Council recommended that the company be advised to contact municipalities directly as it would not be appropriate for the Council to appear to be supporting any privately owned business.

Judge Ernstes announced that the next meeting of the Municipal Court Judges Council is scheduled for August 12, 2003, during the annual traffic court seminar. The seminar will be held this year at Sea Palms on St. Simons Island.

There being no further business, the meeting was adjourned.

Respectfully submitted,
Kathryn W. Gerhardt, Secretary



Training by GCIC

By: Judge Michael Cielinski
Columbus- Muscogee County
Chair of the Municipal Courts
Training Council

At the recent meeting of the training council the GBI and GCIC were in attendance, including Georgia Enfinger, Deputy Director of GCIC, Paul Heppner, Director GCIC/GBI, David House, GBI, John Picheloirer, GBI, and Charles Seners, GBI. Mr. Heppner began the discussion by pointing out that GCIC does not have the resources to accomplish the training they would like to have in the Courts.

While at this time there is no mandatory requirement for training presently, GCIC believes that Judges should be aware of the general

requirements of the law dealing with criminal histories because of the potential abuse and severe penalties.

The training is presently broken down in certain groups. The first group consists of such people as terminal operators, police dispatchers and prosecutors. The second group is practitioners or judicial staff. Another block of training includes security and integrity issues. Rich Reaves suggested that the GBI/GCIC develop a curriculum. The GCIC also informed us there would be a 3 day conference sometime this year. It was suggested that GCIC/GBI prepare a training curriculum and forward it to Mr. Reaves and this was agreed to by Mr. David House of the GBI and he will coordinate this with Mr. Reaves.

Training Seminars for Municipal Judges

*Don't get voted off of the island because
you did not get your hours!!!!*

Remaining training session for
2003 Seminars for Municipal
Court Judges

** Registration is closed*

August 10-13*

Course- Traffic Update
Sea Palms, St. Simons Island

September 3-5

Course - 20 Hour Basic
GA Center, Athens

September 18-19*

Course - Computers - Basics
GA Center, Athens

September 24-26*

Course - Search And Seizure
Wyndam Garden, Marietta

October 18-19

Course - Pharmacology
UGA Pharmacy School

Council of Municipal Court Judges

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