



MUNICIPAL COURT

# Judges Bulletin

Summer 2004 • The Georgia Council of Municipal Court Judges Newsletter • Vol. 6, No. 1

## Council of Municipal Court Judges Officers 2004 - 2005

### President

Judge William M. Coolidge III, Duluth

### President Elect

Judge John K. Edwards, Jr., Valdosta

### First Vice President

Judge LeRoy Burke III, Savannah

### Secretary

Judge Kathy Gerhardt, Macon

### Treasurer

Judge A. Frost Ward, Morrow

### Immediate Past President

Judge Charles Barrett, III, Lilburn

### Editor

Chief Judge Margaret Washburn, Duluth

## District Representatives

### District One

Judge Kevin J. Street, Thunderbolt  
Judge Willie T. Yancey, II, Thunderbolt

### District Two

Judge Herbert W. Benson, Ashburn  
Judge John Kinsley Edwards, Jr., Valdosta

### District Three

Judge Michael P. Cielinski, Columbus  
Judge David M. Pierce, Byron, Perry, Roberta

### District Four

Judge Angela T. Butts, Decatur  
Judge Warren W. Hoffman, Stone Mountain

### District Five

Judge Elaine Carlisle, Atlanta  
Judge Calvin S. Graves, Atlanta

### District Six

Judge John Clayton Davis, Forest Park  
Judge David J. Turner, Jr., Manchester

### District Seven

Judge Herbert M. Crane, Jr., Cartersville  
Judge Diane M. Busch, Marietta

### District Eight

Judge Tommy Bobbitt, III, Dublin  
Judge Charles Merritt, Jr., Madison

### District Nine

Judge Hammond Law, III, Flowery Branch  
Judge Dennis T. Still, Norcross

### District Ten

Judge Chip Hardin, Washington  
Judge C. David Strickland, Covington

## President's Corner

**By: Margaret Gettle Washburn, Editor  
Chief Judge, Municipal Court of Duluth**

This President's Corner should have been written by President Bill Coolidge, who, after many years of hard work and dedication to the Council, was elected as President at our June 2003 annual business meeting. Judge Bill Coolidge passed away on Monday, November 1, 2004, at his home. He suffered a massive heart attack, partially due to occluded arteries. His partner, Richard Carothers, was devastated by Bill's passing. He stated that "Bill was the picture of health. He was losing weight and watching what he ate and had recently taken up bicycling through his Norcross neighborhood." Bill was 47 years old. Our legal community and our judicial community has suffered a terrible loss of a valuable asset. We cannot hope to replace Bill Coolidge. As Mr. Carothers put it: "Bill was a walking encyclopedia of the law." He was so right.

William M. Coolidge, III, was born on April 5, 1957, in Opelika, Alabama. He attended Rhodes College and graduated in 1979. He obtained his J.D. from the Walter F. George School of Law, Mercer University, Macon,

Georgia, in 1982. Judge Coolidge joined Carothers & Mitchell, LLC, Buford, Georgia, in 1997 and became a partner in 2000. His practice was primarily general civil litigation and representation of local governmental entities, as well as forecloses and some general corporate work. He also worked on civil rights claims or state and federal claims relating to police pursuits. Judge Bill Coolidge was a member of the State Bar of Georgia, the Gwinnett County Bar Association, the Atlanta Bar Association, the Council of Municipal Court Judges of Georgia, the Georgia Courts Automation Commission, the Supreme Court Committee of



**Judge William M. Coolidge, III**

Court Technology, the Judicial Council Records Retention Committee, and the Bench and Bar Committee of the State Bar of Georgia.

Bill was well respected throughout the State of Georgia for his legal abilities and research acumen, and also for his judicial capabilities. He served in several courts during his judicial career. He was the Chief Judge of the City of Suwanee Municipal Court from 2001 to the present; Associate Judge for the City of Duluth Municipal Court from 1997 to the present; Associate Judge for the City of Sugar Hill Municipal Court from 2000 to the

**continued on page 2**

# Judge Coolidge continued

present; Judge for the City of Norcross Municipal Court from 1991 to 1997; and served as Judge Pro Hac for the Gwinnett County Recorder's Court.

*My comment is that the Municipal Court Judges serving on the Executive Committee got spoiled. Bill was so dedicated and dependable and reliable, that we didn't have to worry about the research on the recent changes in the law, including the dreaded and complicated HB 1EX.. All any of the Municipal Court Judges had to do was ask Bill a question and we would have the answer, replete with citations, interpretations, and all the history we wanted within a day. Duluth Associate Judge Steven Liebel also mourns the loss of Bill Coolidge. "He was so smart. I enjoyed debating issues and concepts with Bill. It was always a competitive discussion but we had fun." Judge Charles Barrett adds: "Bill was always very supportive and responsive. He gave me thoughtful, helpful advice on on a myriad of subjects. He was my 'go to' person whenever I needed help or input. When I applied to be Judge in Lilburn, he enthusiastically endorsed me, and, I am sure, was instrumental in my obtaining the appointment."*

Duluth Police Chief Randy Belcher added his sentiments: "I intend to request a portrait or other honorarium to be placed in our new courtroom. I can only say that Judge Coolidge was a man with a great love for the legal system, uncanny knowl-

edge and he had a great sense of humor. We will sorely miss him."

Duluth Mayor Shirley Fanning Lasseter added: "Judge Coolidge was a rock – in our courts he was good for the children, fair to the public, conscientious to his job and a team player with the other Duluth Judges. He will be forever missed throughout the community." Gwinnett County

Bar Association President Michael Sheffield had served as a solicitor in the Duluth Municipal Court. He stated: "Judge Coolidge was very knowledgeable about the law. He had a great demeanor in the courtroom and treated everyone fairly."

Marla Moore, Senior Associate Director, Administrative Office of the Courts, shares our loss. "Bill had a long history with the AOC. He was a case counter one summer in 1980, working for research and counting cases in superior court. He joked about that with me several times. He was the current Municipal Court Judges' representative on the Georgia Courts Automation Commission, a commission which sets policy and standards for court technology in the state. He also represented the MCJ on the Supreme Court Committee on Technology which was established by the Chief Justice to study the way court technology is handled in Georgia and make a recommendation for a governance body to over-

see court technology in the state. He worked tirelessly representing municipal judges in the meetings that were held to develop the Georgia Public Defenders Standards Council." Marla added: "Judge Coolidge was one of the first judges in the state to recognize the significance and impact of the *Shelton v Alabama* case, and prepared a most in-depth and thoughtful report on Shelton's impact on the municipal courts. It was used as a model by other classes of court. Recently, he was appointed to serve on the Judicial Council Records Retention Committee. Having municipal court judges serve as members of the Judicial Council was a goal that he worked on but did not accomplish."

It is due to Bill's continuing efforts, following in the footsteps of our past Presidents that members of the Council of Municipal Court Judges are now routinely invited to report to the Judicial Council, along with the member councils, and a municipal court judge has been appointed to sit on each of the newly formed standing committees.

"Bill was a member of the local bar here in Gwinnett. He freely gave of his time and energy for public service programs such as High School Mock Trial. As a practicing attorney and Municipal Court judge he was highly regarded as his peers. His contributions to our profession and his friendship will be missed." Judge Joseph Iannazzone, State Court of Gwinnett County. "He was

***[Judge Coolidge's] contributions to our profession and his friendship will be missed.***

*Judge Joseph Iannazzone  
Gwinnett Co. State Court*

***"With Bill at the helm, we could all go about our business and let him keep up with the outside world.***

*Judge Maurice Hilliard  
City of Roswell*

**continued on page 3**

# 2004-2005 Committees and Chairs

The following persons have been re-appointed as chair persons of the following committees:

Benchbook Committee  
Glen Ashman

Bylaws Committee  
Dennis Still

Georgia Courts Automation  
Commission (GCAC) \*

Georgia Municipal Association  
(GMA) Liaison  
Tommy Bobbitt

Golf Tournament  
James Tillman Payne, Jr.

Hospitality & Entertainment  
Committee  
Charles Smith

Legislative Committee  
Charles Barrett (*new appointment*)

County and Municipal Probation  
Advisory Council (CMPAC) Liaison  
Frost Ward

Georgia Municipal Training Council  
Michael Cielinski (*Chair of Council*)

Newsletter Committee  
Margaret Washburn

Nominating Committee  
David Pierce

Budget Committee  
Frost Ward

Judicial Council  
John Kinsley Edwards, Jr.  
(*President of Council*)\*

Georgia Superior Court Clerks  
Authority (GSCCCA) Liaison  
Tommy Bobbitt\*

Pubic Defender Standards  
Council Liaison \*

Uniform Rules Committee  
John Kinsley Edwards, Jr.

*\*Position was held by or in conjunction with the Late Honorable William M. Coolidge, II.*

---

## Judge Coolidge continued

a fine man who showed a great commitment to his profession and the justice system. We will miss him," stated R. William Ide III, Atlanta. Chief Judge Warren Davis, Magistrate Court of Gwinnett County, stated: "Judge Coolidge was very well regarded and well liked, and just an extraordinarily great human being. He will be sorely missed."

Judge Maurice Hilliard, Roswell, noted: "With Bill at the helm, we could all go about our business and let him keep up with the outside world. Bill would gather the news from the legislature, write it up, and email it to all of us. Bill represented me a couple of years ago when I got sued along with the City (of Roswell). He was outside Counsel for the City's insurance company, and he really did a great job!"

Judge Mark Lewis, Gwinnett Magistrate Court, and a Judge for the City of Suwanee, also had great respect for Bill Coolidge. "The City of Suwanee appointed Bill and I in 2001 when the City decided to bring fresh blood and depth into their court system. Under Bill's leadership as Chief Judge, mandates from the Georgia and U.S. Supreme Court concerning accused's rights were implemented immediately and efficiently. Court sessions were added and changed to effectively administer the Court's growing caseload. Through his stewardship, computers were utilized to process citations and collections were made possible with credit cards and over the web. Bill was open to ideas, freely sharing his power by being a leader who included those who worked with him in the process of change. I don't ever

recall seeing Bill lose his temper or be anything but kind and caring. He cared deeply about the integrity of Suwanee's Court and, by example, made everyone he worked with and those who appeared before him feel worthy, valued and acknowledged. His leadership, kind manner, and friendship will be sorely missed by the City of Suwanee, his colleagues, and friends."

Thanks to Richard Carothers, Judge Warren Davis, and Marla Moore for their help in this article. Chief Judge Coolidge was a rock – in our courts he was good for the children, fair to the public, conscientious to his job and a team player with the other Duluth Judges.

He will be forever missed throughout the community.

# Case Law Update 6/30/04

By Mickey Roberts, Esq., Duluth

## ACCUSATIONS/UTC

### **Taylor v. St. A03A2168 (2/17/04)**

Taylor was tried by jury and convicted of DUI on a UTC; the UTC had Taylor's breath test results (.223); was charged with "DUI, 40-6-391 A-4; The trial court charged the jury that Taylor could be convicted of DUI in 5 different ways; Taylor argues the UTC did not give him sufficient knowledge of what type of DUI he was charged with; The COA holds that the fact that he was charged with DUI was sufficient to place him on notice that he could be convicted of any type of DUI in Georgia!

## ARTICULABLE SUSPICION/ARREST

### **Moore v. St. A04A41 (1/8/04)**

Officers stopped Moore's car as it was exiting a travel center; officers had been alerted by a clerk who told officers the car had been parked for a long time in a rear parking lot; HELD: The Fourth Amendment does not authorize a police officer to effect a traffic stop under such circumstances, so the motion to suppress should have been granted.

### **St. v. Gomez A03A2347 (3/22/04)**

Even though the officer did not observe any traffic violations, his stop of Gomez was held to be valid based on dispatch receiving a call from an anonymous citizen that Gomez' car was weaving.

### **\*Slocum v. St. A04A1067**

(5/10/04) Slocum's car was stopped based on a BOLO. Because the officers had no information on the citi-

zen who called in the BOLO, and no specific information on the car involved in the BOLO, the stop was held to be illegal.

### **\*St. v. Harden A04A674 (5/12/04)**

A Hall County deputy's stop of Harden was affirmed; officer received a BOLO for a male wearing a baseball cap driving a white Ford van driving away from Regions Bank. The stop was valid because the officer had a particularized description of the van, a description of the driver, and the van was departing from the location from which the report was given.

### **\*St. v. Gray A04A1099 (5/17/04)**

Where the evidence is in dispute is challenged, the "any evidence" standard applies. In this case the trial court ruled there was no probable cause to arrest for DUI; Gray had been involved in an accident, had admitted drinking, had registered 2 clues on the HGN, and tested positive for alcohol. Because none of the evidence addressed whether Gray's intoxication impaired her so that she was rendered a less safe driver, the trial court's decision was affirmed.

### **\*State v. Hester A04A125**

(7/15/04) The trial court ruled that officers did not have articulable suspicion to stop Hester, even though he made a u turn before approaching a road block. HELD: When no error of law appears on the record, and the trial court's ruling is based on the credibility of the oral testimony presented at the hearing, we must leave the decision to the trial judge as the trier of fact.

## BOATING

### **Meeks v. St. A03A1663 (1/26/04)**

Meeks was charged with serious injury by boat and BUI; because the events took place on a private lake, the Georgia Boat Safety Act did not apply and Meeks could not be convicted.

## CHEMICAL TESTING

### **Totino v. St. A04A171 (3/15/04)**

On a per se DUI case, the fact that there may be a margin of error on the Intox machine which could place the Defendant below a per se amount, DOES NOT provide sufficient basis for a directed verdict of acquittal; rather it only goes to weight and credibility.

### **State v. Palmaka A03A1898**

(3/26/04) Any deviation from the breath test operator's manual goes to the weight to be given the test and not the admissibility.

### **Howell v. St. A03A2059 (3/24/04)**

Where defendant unequivocally revoked his implied consent and refused the test, but later a 2nd officer administered a breath test, since defendant never rescinded his refusal, the breath test was not validly obtained.

### **\*McGinn v. State A04A**

1545(7/9/04) Another case where Defendant requested a blood test prior to arrest; officer failed to accommodate, and therefore the State's test should have been suppressed.

continued on page 6

# Case Law Update *continued*

## CONSTITUTIONAL QUESTIONS

### **Allen v. State A03A2526 (4/14/04)**

The Court holds that under 40-13-33(a), any challenge to a misdemeanor conviction of any traffic laws of this State must be filed within 180 days of the date the conviction becomes final. It limits such attacks to within the first 180 days after the conviction has been finally adjudicated, even if a habeas petition could be brought and would be successful.

### **\*Ciak v. St. S04A0343 (6/7/04)**

40-8-73.1, the window tint law, is unconstitutional because it applied to Ga residents and therefore violated the equal protection clause. However, the court did not err in denying motion to suppress, because the officer had an articulable suspicion that Ciak had violated the law; officer is not required to know the law was unconstitutional.

## FIELD SOBRIETY

### **\*Evans v. St. A04A0980 (5/25/04)**

Questions as to name, age, and address are generally exempted from Miranda; in this case Evans argued that questions as to her age without Miranda were wrong, because her age (under 21) was an "element" of the offense of underage DUI; the Court of Appeals skirts the issue by finding that the question was asked only to give her the proper implied consent warning, and that at the time of inquiry, Evans had only been charged with DUI less safe.

## EVIDENCE

### **Crowe v. St. S03G0937 (1/12/04)**

Evidence that victim of a vehicular homicide may have been under the

influence of marijuana was relevant and therefore victim's urinalysis should have been admitted.

### **Smith v. St. A03A1675 (1/20/04)**

Defendant's book-in photo may be admissible as relevant to whether defendant was intoxicated; court must weigh probative value against prejudicial harm.

### **St. v. Pierce A03A2457 (3/12/04)**

COA reversed trial court's suppression of HGN holding that problems related to administration of the HGN goes to weight and credibility, not admissibility.

## IMPLIED CONSENT

### **Brown v. St. A03A2528 (1/9/04)**

Implied consent was read 4 minutes after arrest; defendant claimed the consent was not timely read; HELD: Implied consent was timely read.

### **Maddox v. State A04A1086**

(4/7/04) Maddox requested an independent blood test, but did not specify by whom; she was taken to the local fire department where her blood was drawn and sent to the GBI crime lab; HELD: Blood tested at crime lab on an independent test request is valid and does not deny defendant of right to an independent test.

### **Collier v. State A03A2159**

(4/5/04) Motorist's consent to blood and urine tests after car accident was invalid; where police falsely told motorist that if he did not give consent, they would obtain a search warrant and forcibly use catheter to obtain samples.

### **\*Oliver v. State, A04A785 (7/1/04)**

Oliver was given implied consent prior to his arrest for DUI, and reminded a second time after arrest, therefore his consent to a blood test was valid.

## JURY SELECTION/ INSTRUCTION

### **Duelmer v. St. A04A560 (1/29/04)**

The Court charged the jury that a "refusal" could create an inference that the test would show the presence of alcohol which impaired his driving. The charge as given was incorrect and was burden shifting. Additional language that jury could infer "impaired driving" from a refusal was error.

### **Gibson v. St. A03A1724 (1/28/04)**

Obstruction of a police officer is a lesser included offense of fleeing.

### **\*Johnson v. State A04A800**

(7/9/04) Johnson argued that the trial court violated the equal protection clause by declining to give a jury charge that would have allowed the jury to convict if it felt Johnson "was rendered incapable of driving safely due to ingestion of alcohol." Instead, the Court gave the "less safe" charge. Since the two charges have been held under Kachwalla to be "equivalent standards", there was no error in the charge given.

*continued on page 7*



# 2005 Legislative Session Report

**The Honorable Charles L. Barrett, III**  
**Legislative Committee Chair**  
**Duluth, GA**

I want to take this opportunity to report, at least preliminarily, respecting the legislative proposals that our Council wishes to put forward in the upcoming session of the Georgia General Assembly, which, as you may be aware, will convene Monday, January 10, 2005.

Specifically, we are interested in re-introduction of what were previously identified as House Bills 821 and 1455. House Bill 821 deals with the statutory authority for pre-trial diversion programs, for our Courts. Current statutory language does not

specifically authorize the creation and implementation of these programs in our Courts. HB 821 was specifically referenced in the Report of the Chief Justice's Commission on Indigent Defense (Part II). As the Report noted, several "modest" changes to existing Georgia's statutes would permit local experimentation with alternatives to imprisonment for traffic offenses. HB 821, which would amend O.C.G.A. § 15-18-80, would make it clear that Municipal Courts could use pre-trial diversion programs. House Bill 1455 was introduced in the 2004 session of the Georgia General Assembly. The Bill amends Article 7 of Chapter 10, of Title 9, of the Official Code of

Georgia Annotated, relating to continuances, and would provide for a continuance or postponement of a case where a party, or attorney is presiding as a judge or recorder in another court. Passage of this legislation would improve the administration of justice in our Courts, and would, hopefully, tend to ameliorate the problems associated with part-time judges who are also managing active trial practices.

As Chair of our Legislative Committee, I will be in contact with the leadership of both the House and Senate, and will look forward to working with them in conducting the above initiatives through the legislative process in 2005.

---

## Case Law Update *continued*

### ROADBLOCKS

#### \**State v. Morgan* A04A0703

(6/9/04) This particular roadblock was HELD to be ILLEGAL; First, the roadblock was sheduled by supervisory personnel for one day, April 19; yet the roadblock was also held on April 18; in addition the purpose of the roadblock was not only to act as a license/checkpoint, but also to detect "any criminal activity."

#### *Morris v. St.* A04A241 (1/15/04)

The supervisor who initiated the roadblock in this case did not testify; therefore, testimony by field officers as to the purpose of the roadblock was hearsay and inadmissible. Since the State could not prove the purpose of the roadblock and the motion to suppress should have been granted.

### SEARCH AND SEIZURE

#### *State v. Benjamin* A03A1670

(1/13/04) Consent to search a car is permissible even though there was no probable cause to search; only requirement is that consent be voluntary.

#### \**King v. St.* A04A779 (5/21/04)

Officer was qualified to detect odor of unburned marijuana coming from trunk of defendant's car, as basis of search, where officer, in officer's experience, had come in contact with large quantities of unburned marijuana, and had formal training in detecting odor of unburned marijuana.

### SPEEDY TRIAL

#### \**Hester v. State* A04A0855

(6/24/04) Court of Appeals reversing trial court's order denying

Hester motion to dismiss on Constitutional speedy trial grounds. Over 5 years after Hester was arrested for hit and run and vehicular homicide, she filed a motion to dismiss. This case outlines Barker v. Wingo criteria for a constitutional (6th Amendment) speedy trial assertion. For a case in which COA finds no 6th am. violation, *see Allen v. St.*, A04A0636 (6/28/04)

#### *St. v. Shields* A03A2456 (2/6/04)

State appealed court's granting of a motion for discharge under 17-7-170, alleging that the jury clerk's affidavit was not sufficient. HELD: Since the affidavit alleged that jurors were available for both Superior and State Court of Gwinnett, the affidavit was sufficient and court was correct.

# Council Minutes

The annual meeting of the Georgia Council of Municipal Court Judges was held on June 24, 2004 at Renaissance Pineisle Resort at Lake Lanier, Georgia. The meeting was called to order by President Charles Barrett.

The first order of business was the consideration of the minutes of the Spring meeting of the executive committee held in May 7, 2004. The minutes were unanimously approved as submitted.

Judge Barrett gave a brief president's report. He thanked Council members for the privilege of acting as their president and also thanked the executive committee and the AOC staff for their support and assistance during the year he served as president.

Judge Ward then gave the treasurer's report. As of May 31, 2004, the Council had \$37,891.45 in its non-state appropriated funds account. This included funds received from the old Municipal Court Judges Association in the amount of \$4,607.08. Bernadette Smith of the AOC submitted a written report with respect to the state appropriated funds. This report showed that, as of May 31, 2004, \$9,078.37 of the \$20,000.00 in state appropriated funds had been spend, leaving a balance available of \$10,921.63.

As the report from the AOC, Marla Moore introduced Brian Branch and asked him to bring Council members up to date on the status of the Traffic Court Information Systems (TCIS) program. Mr. Branch reported that it had not been possible to get a staff person to each court throughout the state to make the changes required

by the newly enacted legislation with respect to court fines and fees. The information is being made available online so that the various courts can plug into it, preferably with a high speed line.

The next order of business was the election of officers and training council and executive committee members for the coming year. On behalf of the nominating committee, Judge Pierce presented the following slate:

President-Elect, John K. Edwards, Jr.  
Vice President, LeRoy Burke, III  
Secretary, Kathryn Gerhardt  
Treasurer, Frost Ward

Training Council:  
Thomas C. Bobbitt, III  
LeRoy Burke, III  
Charles W. Merritt, Jr.

District One Representatives:  
Kevin J. Street  
Willie T. Yancey, II

District Two Representatives:  
John K. Edwards, Jr.  
Herbert W. Benson

District Three Representatives:  
Michael P. Cielinski  
David M. Pierce

District Four Representatives:  
Angela T. Butts  
Warren W. Hoffman

District Five Representatives:  
Elaine L. Carlisle  
Calvin S. Graves

District Six Representatives:  
J. Clayton Davis  
David J. Turner, Jr.

District Seven Representatives:  
Herbert M. Crane, Jr.  
Diane M. Busch

District Eight Representatives:  
Tommy Bobbitt, III  
Charles W. Merritt, Jr.

District Nine Representatives:  
Hammond Law, III  
Dennis T. Still

District Ten Representatives:  
Chip Hardin  
C. David Strickland

The floor was opened for additional nominations. There being none, a motion was made to approve the slate by acclamation. The motion was seconded and passed unanimously.

Reports on liaisons with the following agencies were then given:

(1) Judicial Council. Judge Coolidge, who attended the most recent meeting of the Judicial Council for Judge Barrett, reported that even though Municipal Court representatives were invited to attend all meetings and reports submitted by those representatives were well received, municipal courts still do not have a seat on the Council. The Municipal Court Judges Council will continue to work on getting membership on the Judicial Council.

**continued on page 8**

---

## Council Minutes *cont.*

(2) Georgia Municipal Association. Judge Bobbitt reported that the GMA was working with the Municipal Court Judges on the implementation of the new court fines and fees legislation. Of particular concern was the priority of payment issue. A conference call had been scheduled with representatives of the Georgia Superior Court Clerk's Cooperative Authority (GSCCCA) to discuss this issue as well as other related issues.

(3) Probation Advisory Council. Judge Ward reported that the Probation Council continues to function well. In an effort to make meetings more accessible to all, meetings were being held at locations throughout the state. The last meeting had been at Jekyll and the one before that at Valdosta. The next meeting will be in Atlanta. He noted the municipal courts are still the largest users of private probation services.

(4) Municipal Court Judges Training Council. Judge Cielinski requested that all judges attending seminars complete the evaluation forms. He also asked for suggestions or recommendations for future training sessions.

The following committee reports were given next:

(1) Bench Book. Bernadette Smith reported for Judge Ashman that he continues to work on the Bench Book. Judge Ashman requested that judges send him any forms they would like to see included in the Bench Book.

(2) Indigent Defense. Judge Coolidge reported that even though

municipal courts had been advised that they must comply with applicable standards of the Public Defenders Standards Council by January 1, 2005, there will be no standards by that date. Nonetheless municipal courts must provide for indigent defense in some fashion by January or it will not be possible to sentence anyone to probation or jail. Standards will be circulated some time later in 2005.

As new business, Judge Ward proposed that standard meeting dates for the Council be set up for the year in advance. No action was taken on this proposal.

Mike Holiman of the GSCCCA then addressed the Council to provide information about HB 1 EX, the new court fines and fees bill. Mr. Holiman first observed that even though this legislation has been labeled an indigent defense bill, it revamps the whole fines and fees network across the state. Its object is to simplify, unify and provide accountability to a system that was in need of revamping. The legislature made the GSCCCA the agency to collect the funds and implement reporting requirements. In Mr. Holiman's opinion, the bill that was enacted will probably only be a stop-gap measure as it did not fix the system but just started the process. In the meantime, he asked for input from courts about how the allocation process is to be setup and implemented.

An issue of concern to municipal courts is how partial payments are to be applied. The law specifies how payments to superior courts are to be handled but does not address pay-

ments to other courts. Mr. Holiman advised that interim rules and regulations would be adopted and promulgated and urged patience as he acknowledged that things are still very much in flux. He also provided those present with an information sheet containing names, phone numbers, and email addresses of contact persons at the GSCCCA as well as appropriate web sites and invited the judges to use this contact information to ask questions and stay current on what is happening and also to obtain necessary forms. A copy of the form may be obtained from the AOC office.

In closing, Mr. Holiman noted that the person responsible for collecting money is the responsible party; in most cases this would be the clerk. If a court fails to remit funds as it should then audits will be conducted. Ultimately the chief judge of the superior court in each circuit will be charged with the authority to work out enforcement procedures if necessary.

Judge Barrett thanked Mr. Holiman for addressing the Council. He then turned the meeting over to Judge Coolidge as the incoming president.

Judge Coolidge expressed his appreciation and that of the Council to Judge Barrett for his service as president. After announcing that the date of the next executive committee meeting had not yet been determined, Judge Coolidge exercised his newly assumed presidential powers to adjourn the meeting.

Respectfully submitted,  
Kathryn Gerhardt, Secretary



# Municipal Courts Training Council Minutes

Renaissance Pineisle Resort  
Lake Lanier, GA  
Thursday, June 24, 2004, 4:00 p.m.

Judge Cielinski called the meeting to order at 4:15 p.m.

## Approval of Minutes

Minutes from the February 5, 2004 meeting were reviewed and passed with all in favor.

## Budget Review

Mr. Richard Reaves, Institute of Continuing Judicial Education (ICJE), distributed a handout and reviewed the Council's budget as of May 30, 2004. He reported on municipal fee activities and stated that the beginning balance. He noted that the Council would close the fiscal year (FY) with no deficit, although the invoice for this meeting will not be processed until the 2005 fiscal year.

Next, Mr. Reaves reported on fund source activities, which are the actual available funds that cover Council expense from July 1, 2004, to June 30, 2004. He informed the Council that the course instructed at this seminar will be paid out of the remaining balance and that the remaining funds will rollover into the FY 2005. Judge Cielinski inquired if the Council's budget would be impacted by UGA's request for ICJE to pay an Administrative Fee of \$16,000.00 for serving as the Council host facility. Due to fiscal constraints, the University had initially proposed ICJE pay a \$48,000.00 administrative fee; however it has agreed for ICJE to pay \$16,000.00 instead. Mr. Reaves stated that the funds would come out of

the state funds appropriated for FY 2005, and that the fee charge would reduce program funding to \$13,000.00.

## Evaluation Results from the Traffic Violation Seminar and DUI Book Discussion

Ms. Mitchum reported on the evaluation results for the traffic violations course that took place March 22-23, 2004 in Athens. She stated the evaluation results were good and the only thing that will change about this seminar, which is to be repeated this September, is there will not be a panel discussion. Mr. Reaves stated that this seminar was designed to target how courts deal with drivers from ages 17-21 and the consequences of the offense. He then reported on the DUI Book discussion and stated the program was well received based on the evaluation results and course instructor Steve Cochran received a good score. He would like to continue this seminar, when the council receives the 2005 course proposal.

A brief discussion took place in regard to the number of participants attending training, those judges delinquent in training hours, and new courses.

## Registration Update

Ms. Mitchum reviewed the updated registration information for upcoming trainings and the Council discussed ways of reminding the judges about training. Ms. Mitchum stated that reminders would go into the upcoming newsletter as well as be mailed out. A brief discussion took place about the participants in the training sessions and Mr. Reaves stated that the first day of courses are

designed for new judges.

## Quarterly Meetings

Mr. Reaves spoke on how helpful it would be to support staff if the council meetings could be scheduled on the quarterly basis. He stated in order to have continuity and momentum setting quarterly meeting dates before the year starts would be helpful. Mr. Reaves also suggested that in the future the business meetings should include the whole Council. He provided described meeting models of other Court Council's and informed the committee that they may want to study it. Issues concerning finances and meeting times were discussed as well as encouraging more participation. It was agreed that creating a schedule should be brought up to the Executive Committee. The AOC and ICJE staff will present schedule at the next meeting.

## Old Business

In old business Judge Cielinski stated that in regards to the proposed legislation by the municipal court clerks to create a separate training council, he has not seen the final bill. In the February meeting, the training council presented the drafted legislation to the executive committee who then discussed recommendations for changes in the bill. The committee was informed that the legislative recommendations made by the Council were received by the clerks; however, there was no time to get new sponsorship in the new draft. The bill will be re-submitted at the next sessions.

Next, Judge Cielinski addressed

**continued on page 11**

# Training Council Minutes *cont.*

proposed legislation that was discussed at the February training council and executive committee meetings which dealt with continuances or postponements where a party or attorney is a presiding judge or recorder in another court. There was an amended version of House Bill 1455 that allowed continuances to last the entire length of the term of the other court. The Council agreed that the language in the amendment should be tweaked and the wording "eliminate the entire length of the term" should be stricken. Judge Cielinski stated that the bill was introduced by Representative Tom Buck and passed in the House; however, died in the Senate. The Council is going to have to work on this bill and get it passed as well as find a new sponsor since Representative Buck will not return to the legislature.

## New Business

In new business Judge Still announced the he, along with Judge Washburn and possibly Judge Cielinski signed up to attend the NJC Sentencing Motor Vehicle Offenders specialty course. The course is scheduled for August 16-19, 2004 in Reno, NV. They are going to use this opportunity, as done in the past, to look for new speakers for future trainings.

Ms. Mitchem spoke on vendors at council meetings and reminded the council that in 2003 Judge Barrett announced he would create a vendor committee. The committee was not created and the responsibility went back to the training council. Ms. Mitchum feels that ICJE should not be involved with vendors,

because their focus is on education. A brief discussion on charging vendors to attend council functions was discussed. It was also agreed that this was a good opportunity for the council to expend sources. Judge Edwards and Burke will bring this up at the next executive committee meeting for a solution to the problem.

Ms. Mitchum opened up a new discussion on meetings for 2005 and stated that the council has several choices on facilities. The Marietta Conference Center is one option, however, Mr. Reaves stated the facility was more than others due to per day fees. Other options included the Marriott Savannah at \$132.00 a night and the Radisson Augusta at \$112.00 a night. Judge Still suggested alternating meeting areas each year between North and South Georgia (if having multiple year contracts were not necessary). Judge Still moved that the training council establish a policy to having meetings one year in South Georgia and the next in North Georgia. Judge Rozen amended the motion to consider the cost and preferences of attendees. Judge Washburn seconded the amended motion and it passed with all in favor. Judge Still moved that the next summer meeting be held in Savannah, with a second from Judge Washburn. The motion passed with all in favor.

Before concluding the discussion Ms. Mitchum reviewed the meeting dates for 2005 with the Council. The dates are as follow:

20 Hour Basic Recertification – February 9-11

Law and Literature Humanities – March 1-2

20 Hour Recertification -September 15-16

Computer Course – September 15-16

Faculty Development - May 13-14

Next, Ms. Mitchem addressed the meeting size that took place at today's session and having the business meeting at this seminar. Mr. Reaves stated if the council is going to continue having the business meeting at these seminars, ICJE prefers to do the overlap training to allow for smaller group activity. The overlapping concept means the business meetings would continue to be on the middle day of training, as was the case with this meeting. There was no other discussion.

Next under new business was the election of officers. After a brief discussion and clarification on nominations, Judge Edwards nominated Judge Cielinski as council chair with a second from Judge Bobbitt. The motion passed with all in favor. Next, Judge Edwards nominated Judge Bobbitt as vice chair with a second from Judge Burke. The motion passed with all in favor.

In new business, Mr. Reaves opened up a discussion on training for municipal court clerks. He suggested that a representative from the training council be a liaison to the committee of clerks' of municipal court. The liaison function would involve meeting with the clerks planning committee and providing input on behalf of the council into their training. This function would help the ICJE staff when the clerks are planning their agenda and training.

---

## Training Council Minutes *cont.*

Mr. Reaves noted they are planning a clerks training for this fall. He feels it is critical that the council have a liaison as a part of the clerks' training and Judges Bobbitt and Coolidge agreed. The council agreed that Judge Bobbitt and Judge Still will act as liaisons regarding the clerks' training.

In new business, Judge Washburn inquired about carry-over hours. Mr. Reaves responded that in the Superior and State Court Uniform Rules it is written that they can carry over hours; however, no other class of court does this. Judge Still brought up a request for waiver and cross credits. Mr. Reaves stated

that in giving credits for cross training, municipal judges can earn up to 6 hours, while magistrates can now earn all credit.

Judge Washburn briefly discussed the council providing interactive training with the use of keypads. It was agreed that this type of training was expensive, running on average \$8,000.00 for 200 keypads. Mr. Reaves felt this type of training did not prove beneficial, although Judge Washburn felt it was good for certain trainings such as ethics presentations. There was no other discussion.

Next Meeting Date

The committee will be informed about the next meeting date by the AOC.

Adjournment

With no other business, Judge Cielinski moved to adjourn, with a second from Judge Edwards. The motion passed with all in favor and the meeting adjourned at 5:30 p.m.

Respectfully submitted

For Ms. Marla Moore

From Bernadette Smith

Judicial Liaison for the AOC

---

## Municipal Court Judges' Courses for 2005

MCJ-Basic Course  
February 9-11  
Georgia Center

MCJ Certification  
September 14-16  
Georgia Center

MCJ-Recertification Course  
February 10-11  
Georgia Center

MCJ Recertification  
September 15-16  
Georgia Center

Law & Literature  
March 1-2  
Georgia Center

MCJ Computers  
September 15-16  
Georgia Center

Survey Update  
June 22-24  
Savannah Marriott

---

## Farewell and Congratulations

On September 9, 2004, Judge LeRoy Burke, III, was appointed to a new full-time position on the Juvenile Court Bench in the Eastern Circuit. Judge Burke previously served on the Recorder's Court of Chatham County.

Judge Burke held the position of Vice-President to the Council of Municipal Court Judges as well as serving on the Municipal Courts Training Council.

We would like to congratulate Judge Burke on his new endeavors.

# Law Day Essay Contest

## What is the Status of Racial Integration and Segregation in the United States Today

By: Tyler Davis, Senior, Duluth High School  
Law Day Essay Contest, Law Day, May 1, 2004

As the world moves onward from the late 20th Century into the future, racial integration will continue to improve and segregation will lessen. The United States today is a country of many ethnic backgrounds and cultures that has evolved into a flourishing society. This society desegregates its classrooms, businesses, and government and continues to make tremendous strides towards integrating every organization. Although in the early century segregation was abundant, over periods of time people saw this as cruel and unfair. The Constitution of the United States strictly prohibits any segregation and promotes free speech as well as racial integration. The country has taken many steps (integrating schools, giving proper funding, passed laws etc.) in the right direction these last few years. Over time the United States has gone through many rough periods which involved segregation and discrimination.

Today, the United States bans discrimination according to the color of one's skin. Public bars, public places and other venues have changed and become more diverse. No one can ban a person from any place based on race alone. Many court cases, such *Topeka v. Kansas* and *Brown v. Board of Education*, have upheld this principle. To combat segregation during the old days, the government started racial integration of the white suburban lifestyle. While contemporary racial disparities in education are not

always due to racial discrimination, most of them can be traced either to current social policies or educational practices. The school system and its funding of educational practices, have promoted segregation.

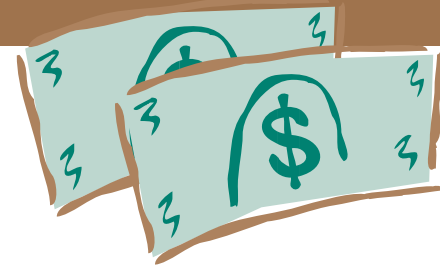
The racial, ethnic, and social class inequalities in society lead to the segregation of the schools. As long as housing policies are like they are, and how they affect school districting, this will be another factor of why segregation still exists in society. Furthermore, school finance policies that are based on property values create vastly different funding bases in the urban and rural school districts. Every family wants their children in the top program, so naturally the rich, suburban white families cluster together, socially creating segregation and its opposite -- ghettos.

However, the equal protection cases involving anti-discriminatory ideals add to racial integration within society. More and more minority men are climbing the so-called "ladder of success," up to the highest social class. Integrating into our society, they help contribute to the building of new racial integration. A new American culture is emerging within the United States. The current social and economic interaction of the racial status between the majority and the minority is getting better. The equal regulation laws seeking to alleviate racial segregation also help desegregation. Politically, educationally, and economically the different races still have difficulty

co-existing. The U.S. has been contributing to its own segregation by helping the "rich get richer" and the "poor get poorer", while the status of different cultures climbs in the opposite directions.

The government's equal protection (desegregation and racial integration) identifies race and gender as "discriminating" acts against the constitution. There is still segregation in today's society, but there is also much racial integration as well. In certain areas multi cultural diverse ethnic groups prove to be the driving force behind the workforce and society. There will always be segregation; one cannot change every person's mind towards a perfect harmony of racial equality and integration. Segregation is simply the way a person's mind is altered by the looks at the color of one's skin or the gender differences between male and female. In today's society racial integration is the key to stopping segregation. By integrating diverse people and their background, people become more accustomed to different lifestyles and they appreciate varied cultures.

Racial integration is improving and has come a long way. However, there is still ample evidence of segregation in America today--- so we still have a long way to go to really see Jefferson's ideals completely fulfilled.



## Boomers Have Retirement Potential If They Control Spending

By Chris Ellington  
cmmsewell@msn.com, (770) 998-5327

**B**aby boomers have the potential to do better financially than their parents in retirement, according to new research. But their prospects likely will depend on their ability to rein in their spending. It is unclear whether boomers will squander defined-contribution pensions, commonly in the form of 401(k) plans, on big-ticket purchases early in retirement, or if they will turn those savings into a steady income. Will they "buy a beach house or an annuity?" asks John Rothen, AARP's

head lobbyist. "I'm afraid it will be more the former than the latter. Quite a few boomers (will be) using at least a portion of that for immediate consumption, not retirement income. (Kelly Greene, *Wall Street Journal*, May 19, 2004).

After reading this article, I chuckled. The real question is, "Will they be smart enough to rent their beach house?"

"Most people have it all wrong about wealth in America. Wealth is

not the same as income. If you make a good income each year and spend it all, you are not getting wealthier. Wealth is what you accumulate, not what you spend." - from *The Millionaire Next Door* by Thomas J. Stanley and William D. Danko.

If I can help you with these ideas, please give me a call! Have a great holiday, Chris Ellington.

---

## Condolences

Judge Scott Childress on the loss of his father November 29, 2004.



## Mark Your Calendar

### Winter Meeting

Legislative Breakfast  
Thursday February 4, 2005,  
7:30 a.m.  
Floyd Room  
James H. Floyd Building in Atlanta

*Executive Committee and Training Council Meetings will take place immediately at the conclusion of the Legislative Breakfast.*

### Spring Meeting

Friday, April 15, 2005  
Administrative Office of the Courts  
Macon Office or The Public Safety  
Training Center in Forsyth  
Training Council – TBA  
Executive Committee - TBA

### Summer Meeting

in conjunction with the  
Traffic Seminar  
June 22-24, 2005  
Savannah Marriott, Savannah  
Training Council – TBA  
Executive Committee –TBA

---

## Thank You

Thank you... I do not mean to offend. Like other Soldier/Warriors I would anticipate that when the 'point man' is no longer able to Serve/Protect, another Soldier will Honor him be stepping up to replace him. Only at the end of the day are we allowed to mourn our losses.

Scott Childress



# 2005 Legislative Session Report

**The Honorable Charles L. Barrett, III**  
**Legislative Committee Chair**  
**Duluth, GA**

I want to take this opportunity to report, at least preliminarily, respecting the legislative proposals that our Council wishes to put forward in the upcoming session of the Georgia General Assembly, which, as you may be aware, will convene Monday, January 10, 2005.

Specifically, we are interested in re-introduction of what were previously identified as House Bills 821 and 1455. House Bill 821 deals with the statutory authority for pre-trial diversion programs, for our Courts. Current statutory language does not



specifically authorize the creation and implementation of these programs in our Courts. HB 821 was specifically referenced in the Report of the Chief Justice's Commission on Indigent Defense (Part II). As the

Report noted, several "modest" changes to existing Georgia's statutes would permit local experimentation with alternatives to imprisonment for traffic offenses. HB 821, which would amend O.C.G.A. § 15-18-80, would make it clear that Municipal Courts could use pre-trial diversion programs.

House Bill 1455 was introduced in the 2004 session of the Georgia General Assembly. The Bill amends Article 7 of Chapter 10, of Title 9, of

the Official Code of Georgia Annotated, relating to continuances, and would provide for a continuance or postponement of a case where a party, or attorney is presiding as a judge or recorder in another court. Passage of this legislation would improve the administration of justice in our Courts, and would, hopefully, tend to ameliorate the problems associated with part-time judges who are also managing active trial practices.

As Chair of our Legislative Committee, I will be in contact with the leadership of both the House and Senate, and will look forward to working with them in conducting the above initiatives through the legislative process in 2005.

---

## Council of Municipal Court Judges

Administrative Office of the Courts  
244 Washington Street, SW • Suite 300  
Atlanta, Georgia 30334

**MARGARET GETTLE WASHBURN**  
*Chief Judge, Duluth*  
*Editor*

**DAVID L. RATLEY**  
*Director*

**MARLA MOORE**  
*Associate Director for*  
*Court Services*

**ASHLEY G. STOLLAR**  
*Graphic Design*