



MUNICIPAL COURT Judges Bulletin

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President's Corner



Bill Clifton
Forsyth Municipal Court

Our legislative proposal to increase qualification standards and protect municipal judges from arbitrary terminations did not make it to a floor vote during the most recent session, but it was not killed in committee either. In fact, Rep. Wendell Willard, Chairman of the House Judiciary Committee, graciously encouraged our efforts and offered suggestions on ways we can help push our agenda during the next legislative session. Most importantly, he suggested that we obtain the support of the Georgia Municipal Association. Toward that end, Tommy Bobbitt of Dublin, who has a good working relationship with GMA, will be identifying and recruiting several of our members with award-winning personalities to attend GMA meetings and otherwise assist him in making our case. Be on the lookout for his call, and please help if called upon. It won't take much of your time. You'll make new friends. Mayors don't bite.

Ours is not a hard case to make, if you think about it. The legislature makes no secret of the fact that it wants Georgia's judges to hold themselves to higher standards. Every legislative session brings renewed calls for increased qualifications. The choice is ours: either we propose reasonable legislation that protects non-attorney judges already on the bench, or we watch as the legislature unilaterally sets new standards without our input. The best interests of our Council ? and of the GMA

? are served by submitting a bill that we like.

Meanwhile, Judge Barrett, our legislative chair, soon will meet with the legislative chairs of the State, Magistrate and Probate councils to hammer out a coordinated approach for the next legislative session. And, my impression from the last Executive meeting is that your Council may approve the use of private funds for travel expenses incurred by judges who wish to attend next year's legislative session to make their presence known.

On another front, Judges Strickland (your new Vice President.), Lanier and Sedghi will coordinate with Justice Hines to identify areas where our Council can relinquish administrative control to the Supreme Court without completely ceding our autonomy. They will then prepare a draft proposal for Executive Committee review next Winter, and for vote by the full membership in the Summer of 2009. We hope this process creates a prototype for other Councils to join in and create economies of scale without scaring anyone by using the silly, forbidden word ? "unification."

Judge Anderson is chipping away at our draft uniform rules. Soon they will be distributed to the other Councils for review and comment, and soon thereafter Anderson will coordinate with his counterparts at Probate, Magistrate and State to draft a proposal for consolidated uniform rules. Another cooperative move is coordination between our training council and the training councils of our sister courts to standardize training requirements for all

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NEXT MEETING DATES

June 25, 2008: Council of Municipal Court Judges, Riverfront Marriott, Savannah. 3:30 pm.

June 26, 2008: Council Business Meeting and Election of Officers, Riverfront Marriott, Savannah, 12:00 luncheon

Check out "Short Takes" in this issue, and the CMCJ website:

<http://www.georgiacourts.org/councils/municipal>

EXECUTIVE COMMITTEE

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Dacula

Judge Kenneth E. Wickham
Norcross

District 10
Judge Chip Hardin
Tignall

Judge C. David Strickland
Porterdale

Changes to the Executive Committee Announced

Judge Tammy Stokes was elected at the April meeting to fill the unexpired term of President-Elect left vacant by Judge John Roberts.

Judge David Strickland was elected at the April meeting to fill the unexpired term of Vice President left vacant by Judge Tammy Stokes.

Judge Calvin Graves, District 5 Representative, notified President Clifton that he would not be able to continue in his position. His experience and dedication to the Council will be missed.

Judge Gary Jackson, Municipal Court of Atlanta, was appointed by the President to fill the unexpired term of Judge Graves, District 5 Representative, through the end of June.

Judge Annie Doris Holder, Municipal Court of Arlington, has been appointed by President Clifton to fill the unexpired term of Judge Henry Williams as the District 2 Representative. Judge Holder also serves as a Probate Judge and a Magistrate Court Judge in Calhoun County.

Instructors Needed!

ICJE is looking for a few good judges with experience to assist in training other municipal judges and municipal clerks.

If you have a topic you are especially interested in, and enjoy teaching others, please call Kathy Mitchem at 706-542-7402 (Kathy@icje.law.uga.edu) to let her know you are available.

CHECK OUT

www.AAAfoundation.org/
*products for brochures on
driver safety for teens,
night driving, road rage,
elder drivers, etc.*

President's Corner cont.

traffic courts. As a sitting magistrate and municipal judge, I personally attest to the silliness of satisfying two sets of training requirements and doubling taxpayer expense. We can save money for our councils through our combined effort.

Probate judges recently expressed support for Judge Hilliard's committee's efforts concerning prosecutors for limited jurisdiction courts. State courts enjoy the presence of solicitors on a routine basis, but many other courts do not have prosecutors and do not realize the long-term financial (and constitutional) benefits of an independent prosecutor. Judge Hilliard needs assistance with his work. Volunteer your services if you want a solicitor. Otherwise, be happy with the status quo and don't complain.

In a near stroke of genius (I say "near" because his ego's already plenty big for a Dawg fan), Judge Bobbitt and the Court Security Committee are devising a plan to coordinate with GMA's

insurer whereby GMA members can receive a premium discount by adopting minimal security standards. We all owe a debt of gratitude if Tommy pulls this one off!

Nelly Withers reports that we are in pretty good shape to keep all our district and executive positions filled this coming year. She has agreed to run for the Vice-President position next year. I hope you will agree that she is a dynamic, proven asset.

Last bit of news: we are asking the Judicial Council to insert \$119,000 into next year's budget to facilitate the development of a statewide informational database containing caseload and financial data for municipal courts. We believe the benefit will be enormous when it comes time to prove the value of our courts to the judiciary, and when the judiciary wishes to emphasize its importance to the State.

Look back with a smile at this last year. We did not accomplish everything,

but we've come very far, very fast. Some folks told us there was no point in working on court security. Some said different classes of courts could not work together. Some asserted that municipal courts would never be treated as equals. Some people were just plain wrong.

Summer meeting is right around the corner, and Tammy Stokes is ready to run with the ball. I look forward to enthusiastically supporting Judges Stokes and Strickland as they take the reins. My thanks goes out to all the judges that have stepped forward this year to re-energize our Council. So many new faces and original ideas! But, there is still much to be done. One last time I remind you: the strength of our Council is its members. There's plenty of room for judges who can donate a few hours of their time.

Get involved. It really is fun.

Financial Report

COUNCIL OF MUNICIPAL COURT JUDGES –Q1 FY 2008
1/1/2008 through 04/11/2008

Date	Account	Num	Description	Memo	Category	Amount
BALANCE 12/31/2008						60,770.38
01/01/2008 – 04/11/2008	DEP	DEP	DEP	DUES		60.00
BALANCE 4/11/2008						60,830.38
				TOTAL INFLOWS		60.00
				TOTAL OUTFLOWS		0.00
				NET TOTAL		60.00

Cash Inflows: Dues \$60.00 membership dues

Cash Outflows: None

Ending Bank Balance at 04/11/2008: \$60,830.38 (reconciled).

Signed: Charles A. Gravitt, Sr., Treasurer

Joshua's Law Drivers Education Program and Grant Funding

Research provided by Kevin Tolmich, Assistant Director of Planning, AOC

The following are questions posed concerning Joshua's Law and the driver's education and training programs funded through fees collected for Joshua's Law.

1. What is the amount of funding remitted to the state in fiscal year 2007 (Joshua's Law remittance only)?

In FY2007, a total of \$9,590,973.13 was remitted by the courts for Joshua's Law. Of this amount, Municipal Courts remitted \$5,251,660.38. Funds are collected and remitted to the Georgia Superior Court Clerks Cooperative Authority (GSCCCA) who subsequently sends the collected funds to the state general fund. Annually, the General Assembly appropriates the funds to the Georgia Drivers Education Commission. Per O.C.G.A. § 15-21-181 "As soon as practicable after the end of each fiscal year, the Office of Treasury and Fiscal Services shall report the amount of funds received pursuant to Code Section 15-21-179 to the Office of Planning and Budget and the commission. It is the intent of the General Assembly that, subject to appropriation, an amount equal to such proceeds received from such fines in any fiscal year shall be made available during the following fiscal year to the commission for the purposes set forth in Code Section 15-21-178." Remittance totals for Joshua's Law and other fees are available at the GSCCCA CourtTrax website, <http://www.courttrax.org/>.

2. How is funding allocated in regard to driver education courses across the state?

The Georgia Drivers Education Commission (part of the Georgia Department of Highway Safety) is created in O.C.G.A § 15-21-172 and is given the authority in O.C.G.A § 15-21-175 to accept funds from Joshua's Law add-on fee for the purpose of funding driver education and training programs. O.C.G.A. § 15-21-178 gives the Commission the authority to disperse the funds to those entities or programs providing driver education and training. The important part of O.C.G.A § 15-21-178 to consider is "...a person, entity, or program eligible pursuant to criteria to be set by the commission." This phrase gives the Commission the authority to determine which groups can apply and receive Joshua Law grant funds.

According to the Joshua Law grant program website, <http://www.gateen-drivereducation.dds.ga.gov/joshuaslaw.html>, funding is currently being given to Georgia Public School Driving Safety Education Programs and Georgia Public Library Education Programs. Current groups receiving funding for 2007-2008 are available per the aforementioned website.

3. How do the courts access funding for local educational entities such as high schools within a specific municipality or county?

The only way the courts can get on the list is to make a formal proposal

Georgia High Schools offering driver education learning opportunities online:

Banks County School System
Bleckley County Schools
Brantley County HS
Bryan County HS
Calhoun HS-Gordon County
Carroll Co School System
Charlton County HS
Clarke County School District
Coffee County Board of Educ
Dade County HS
DeKalb Co School System
Early Board of Education
Effingham County HS
Elbert Co Comprehensive HS
Forsyth Co School System
Gilmer County Schools
Gordon Lee HS
Harris County HS
Jenkins Co School System
Jones County HS
Lumpkin County HS
Madison County HS
Marietta HS
Meriwether Co School Sys
Pickens County HS
Rabun County HS
South Effingham HS
Tattall County HS
Telfair County HS
Thomasville City School - Thomas Co
Tift County HS
Wayne County School System
Webster Co Bd of Education
White County HS
Wilkinson County Schools

Meet Your Leaders!

Judge Margaret Washburn (aka: “Queen Maggie”)

COURT(S): City of Sugar Hill and City of Duluth

EDUCATION: Oglethorpe University; Emory Univ. School of Law



I have really enjoyed serving as a Judge over the past 23 years as this has provided me with the opportunity to get to know great people within our community and to actually help people in our community. A municipal court is a great place to educate young people and is not just an instrument for

punishment.

I had the privilege to serve as the President of the Georgia Council for Municipal Court Judges from 1998-1999. I have served as the News Bulletin editor for over 10 years and appreciate the opportunity to get to know such great people that serve as judges throughout our state.

In my “spare time,” I enjoy taking my adult children to interesting places and seeing things through

their eyes. I also enjoy tennis and belong to several teams.

Over the past years, several cases stand out in my memory of “memorable cases.” One was the City of Duluth v. Deion Sanders. Was he using abusive and opprobrious language to the officers and store clerks or was he upset about being sent down to the minors and having a bad day? I was also the Judge in Sugar Hill that presided over the “Bunny Lady” case. Was she selling livestock or did she have a yard full of loving pets that were all named: “4 Sale”? Also, was one of our older gentlemen raising goats as livestock in Sugar Hill, or were said goats environmentally safe weed eaters?

During the past twelve months, I have spoken about our court system and the judicial system to several groups of students and also community service clubs such as the State Bar of Georgia High School Mock Trial teams during the Gwinnett Regional and then the State finals. I have also had the opportunity to talk about our court system at several Kiwanis meetings. I am usually a speaker for Career Day at a local high school and always encourage our young people to go into the legal profession as it is one of the most rewarding careers imaginable.

Joshua’s Law cont.

to the Commission requesting that other entities such as the courts be approved to pursue the Joshua Law funding. If the Commission accepts this proposal, then individual courts

would be allowed to apply for grants much like the Georgia Public Schools and Georgia Libraries are currently allowed to do.

Georgia Public Libraries offering driver education learning opportunities online:

Athens Regional Library System
Bartow County Public Library
Chattooga Co Library System
Cherokee Reg Library System
Chestatee Reg Library System
Clayton County Public Library
Coastal Plain Regional Library
Dalton-Whitfield County Library
DeSoto Trail Regional Library
Elbert County Library System
Fannin County Public Library
Hall County Library System
Jefferson County Library System
Kinchafoonie Reg Library Sys

Lee County Library
Middle Georgia Reg Library
Mountain Regional Library
Ocmulgee Reg Library System
Pine Mountain Reg Library Sys
Roddenberry Memorial Library
Satilla Regional Library
Screven-Jenkins Reg Library
Sequoyah Reg Library System
Statesboro Reg Library System
Thomas Co Public Library System
Towns County Public Library
Uncle Remus Reg Library System
Union County Public Library

Meet Your Leaders!

Judge Kent Wickham

COURT(S): Municipal Court of Norcross, beginning my 6th year on the bench. Also serve as a visiting Judge for Gwinnett County Recorder's Court. I have private practice in Gwinnett County.

EDUCATION: Oglethorpe University; Emory Univ. School of Law



Beginning my third year as District 9 Representative on the Georgia Council of Municipal Court

Judges. Married to wife Rosemary for 9 years with two-year-old son Victor. I am a resident of Norcross Georgia, and a native of Savannah.

HOBBIES: mountain biking, chasing my son around, classic movies, studying history-gardening, anything outdoors-especially around the coast, cooking

I absolutely love my job and I

could not ask for a better place to serve. I am very fortunate to have inherited a great court from the men and women who preceded me. We have a very talented and capable group of team members in our court. Gary Vey is our chief solicitor and Joy Adams is our clerk of court. Pro tem Judges include Claude Mason, Angela Duncan and William Brogdon. Our Court has seen a steady increase in volume and in the complexity of cases as our city, county and region continues to see rapid and continual growth.

Our private probation service provided by Professional Probation has been invaluable in monitoring

sentence compliance and fine collection in the last few years. One of the recent changes we have instituted is hearing all custody cases at the Gwinnett County Jail once a week rather than transporting back and forth during our regular calendar. The Court has also developed a vigorous community service relationship with the City to allow for flexibility in sentencing. This increased focus on community service has paid huge dividends in the beautification of the City as well as fostering a sense of community within the surrounding area.

I look forward to seeing everyone down in Savannah.

Judge Dennis Still



Dennis is an Attorney at Law with the firm of Garner and Still in Lawrenceville, Georgia where he

has a general law practice with an emphasis on Family Law, Real Estate Law and Probate, Wills and Estate Law. He has served as the City Attorney for Dacula since 1978. He is the Chief Judge of the Municipal Court of the City of Lawrenceville since 1981 and is serving in his third term as Chairman of the Municipal Court Judges

Training Council of Georgia. He also serves on the Supreme Court of Georgia Commission on Interpreters.

He is an active member of the Rotary Club of Braselton and Chairman of the Georgia Rotary Student Program, a trustee of the Gwinnett County Law Library, past president of the Gwinnett County Bar Association, past master of Lawrenceville Masonic Lodge No. 131, formerly Secretary of the Hospital Authority of Gwinnett County, formerly Treasurer of the Gwinnett County Livestock and Fair Association and an Elder in the First Presbyterian Church of Winder.

Dennis received his undergraduate degree from the University of Georgia and his Law degree from Woodrow Wilson College of Law. He is married to Elaine Sims Still, a high school business education teacher at Mill Creek High School. They have one son, Daniel, who is a graduate of Georgia Tech and is a computer software engineer.

In his spare time he enjoys playing golf — a consuming passion for several years. He also enjoys snow skiing and during the last several years has gone on a ski trip out west with other lawyers and judges for Ski CLE.

Case Law Update

BY: Mickey Roberts
mickey@mrgadui.com

ARTICULABLE SUSPICION/ ARREST

Hazley v. St A07A2446 02/08/08
Hazley argued that the officer lacked probable cause to arrest for DUI; the officer stopped Hazley for improper taillights; he smelled the odor of alcohol, and Hazley admitted drinking a 6 pack earlier; Hazley refused to perform any field tests; based on the foregoing the COA finds enough probable cause to arrest.

CHEMICAL TESTING

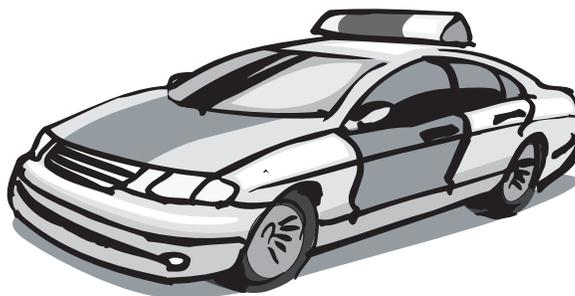
Rosandich v. St A07A1749
1/11/08

Although the breath test results were suppressed because of the failure to comply with implied consent warning, the results are still admissible for impeachment purposes.

COMMERCIAL DRIVERS LICENSE

Chancellor v. Dozier S07A1371
3/10/08 Chancellor was arrested for DUI while driving his personal car; he refused the breath test; because he refused his commercial driver's license was suspended for life pursuant to 40-5-151 (c) because he had a prior conviction of DUI and he

refused to submit to a breath test. He argues that the Implied Consent Notice violates due process because it did not make him aware of the actual consequences of his refusal to submit to testing. The Supremes disagree, holding due process does not require the arresting officer to inform the driver of all of the consequences of refusing to submit to chemical testing. Chancellor also argued that the Commercial Drivers paragraph of the ICW should have been read to him; however, the Supremes note that in Meyer v. St, 224 Ga App 183,



The Court of Appeals concluded that the General Assembly intended the statutory ICW entitled for "commercial drivers" was to be used for person stopped while driving commercial vehicles, not their private vehicles.

IMPLIED CONSENT

St. v. Morgan The officer in this case testified that at the time he requested Morgan's consent to test his blood for alcohol and drugs, Morgan was a suspect in a criminal investigation. The officer also testified that, based on his understanding of recent changes in the law, he was prohibited from requesting a blood test under the implied consent statute in the absence of probable cause and/or an arrest. The officer stated that he made a conscious decision not to

advise Morgan of his implied consent rights, and to instead simply ask for his consent. We do not condone such conduct. Were we to do so, we would effectively eviscerate the implied consent statute. If, under State v. Collier, an officer is prohibited from obtaining a search warrant to require a blood test from a DUI suspect following his refusal, it follows that an officer is not permitted to circumvent the implied consent statute by merely requesting consent without giving any implied consent notice or warning.

Snyder v. St S07G1093 2/25/08

The State may request a driver who has not yet been arrested to submit to a chemical test of the driver's bodily substances if a law enforcement officer has probable cause to believe the driver was driving under the influence and the driver was involved in a traffic accident resulting in serious injury or fatality.

SEARCH/SEIZURE

St. v. Jones A07A2054 01/11/08
Police officer lacked justification to detain defendant whom he allegedly stopped on suspicion of driving under the influence, and thus, the officer's subsequent search of the defendant's truck, resulting in seizure of a firearm, was illegal; officer testified that even though he quickly concluded defendant was not intoxicated and that he did not fear for his safety, he asked to look at firearm in truck as standard practice to determine whether it was stolen. U.S.C.A. Const.Amend. 4.

Please Recycle



Federal Law Restricts Firearms After Convictions

It should come as no surprise that domestic abuse is a serious problem in the United States and in Georgia. In *Georgia v. Randolph*,¹ the Supreme Court noted that 5.3 million victimizations resulting in nearly 2 million injuries and 1300 deaths occur each year among women in this country.² There were 372 family violence homicides in Georgia alone from 2003-2005.³ The Violence Against Women Act addressed this serious safety threat by restricting abusers' access to firearms after they were convicted of misdemeanors involving intimate partners and other family members. Federal law requires that any person subject to a "misdemeanor crime of domestic violence" shall not receive or possess firearms or ammunition.⁴ This is true regardless of state law, case precedent, or state judicial order. This article will review the federal law and identify ways that state court judges can use the federal restrictions to promote victim safety. Federal Law on Firearms

If a defendant is convicted of a misdemeanor of domestic violence, he or she is restricted thereafter from possessing or transporting a firearm or ammunition unless the conviction is set aside, expunged, or pardoned. To be a "misdemeanor crime of domestic violence," the offense must:

- Be a misdemeanor under state or federal law;
- Have, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon;
- Be committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse,

parent, or guardian of the victim; and

- Incorporate certain procedural safeguards.⁵ 18 U.S.C. § 921(a)(33)(A).

The Eleventh Circuit Court of Appeals recently provided answers to several questions about how these requirements apply to criminal actions in Georgia.⁶ The Court held that "under the plain meaning rule, the 'physical contact of an insulting or provoking nature' made illegal by the Georgia battery statute satisfies the 'physical force' requirement of § 921(a)(33)(A)(ii), which is defined into § 922(g)(9)." Or more simply stated, the Georgia simple battery statute meets the federal statute's standard of "physical force." This opinion also addressed the issue of whether the relationship between the defendant and the victim must be an element of the crime for the federal restrictions to apply. The Court of Appeals held that "a domestic relationship must exist as part of the facts giving rise to the prior offense, but it need not be an element of that offense." *Id.* at 1346. In short, any simple battery misdemeanor in Georgia which has been committed against an intimate partner, whether or not the misdemeanor has been categorized or prosecuted as a "DV battery," is subject to the federal gun restrictions. These defendants have lost the privilege of possessing a firearm or ammunition.

What does this mean for a sentencing judge?

- **Determine which cases are subject to federal firearms restrictions.**

Any case where the defendant is related to the victim in one of the categories of "intimate partner" listed above may be a case involving a "misdemeanor of domestic violence." Once the court determines that the parties are "intimate part-

ners," any battery, simple battery, DV battery, assault, simple assault, stalking, pointing a pistol at another, or other related charges could fall within the firearms restrictions.⁷ The title of the misdemeanor is not important as long as one of the elements of the crime is the use or attempted use of physical force or threatened use of a deadly weapon.⁸

- **At sentencing, verbally advise defendants of the federal firearms restrictions.**

If the federal restrictions apply to a particular case, the defendant is restricted thereafter from receiving, possessing, or transporting firearms. Any violation can result in prison for up to ten years and a fine.⁹ This is true regardless of whether the defendant has notice of the federal law. However, common sense suggests that instructing the defendant about the prohibition on owning or possessing firearms or ammunition will not only help the defendant comply with the law but could also keep the abused family member safer. Gunshot is by far the most common cause of intimate partner homicide in Georgia.¹⁰ Research indicates that an abuser's ownership of a gun increases the victim's chance of being murdered by over five times.¹¹ Judicial initiatives to insure that abusers do not have guns will reduce the chance of serious injury and death to victims.

- **Document the relationship between the defendant and the victim in the final accusation and on the sentencing sheets.**

Addressing the relationship between the defendant and the victim is important to streamline the application of the law. To protect victims after misdemeanor convictions involving physical force, the accusation or sentencing sheet should show

by Intimate Partners

on its face that the parties were related.¹² This will make it easier to determine that the case is subject to federal firearms restrictions and to list it in the national registries that purchasers must clear before buying a gun..

- **Specifically incorporate the language of the federal law into any sentencing orders and waiver of rights forms.**

Putting the federal restrictions on firearms possession in writing on any sentencing order or waiver of rights form will make enforcement of the prohibition easier. State courts are more nimble than federal enforcement in insuring that firearms stay out of the hands of those who have misused them. With restrictions in state courts orders, the court can revoke probation or charge the abuser with an additional criminal violation if domestic violence continues to occur. It also makes federal prosecution easier by providing a written record that the defendant was notified of the restriction. The addition of this language would not create a limitation on possession or ownership of firearms or ammunition, nor does it violate any constitutional rights.¹³ Rather, it puts the abuser on notice that any violation will result in

swift consequences by Georgia officials.

- **Enforce compliance with the law.**

Talk to the court clerk to insure that information about firearms restrictions is available to firearms licensing authorities. If the defendant owns firearms, order him to surrender them to law enforcement authorities within a specific time period. Then have the defendant return to court with proof of compliance. Punish violators by revoking probation.

Conclusion

Understanding and applying the federal law against firearms possession when sentencing defendants for misdemeanor offenses involving family abuse will promote the health and safety of victims and their children. Incorporating the federal language into all interlocutory and final orders will not only put the defendant on notice of his obligations under the federal statute but will more effectively protect victims and their children.

Karen Henize Geiger is the staff attorney for Georgia Legal Services Program's Family Violence Project. She can be contacted at kgeiger@glsp.org.

Check list for Judges:

- Have I questioned the defendant about ownership of guns under oath to help determine any specific restrictions I feel are necessary to protect the victim?
- Is notice of the federal firearms restriction in all bail, bond, plea, probation, and sentencing forms used by my court?
- Have I informed the defendant of these restrictions in open court?
- Have I documented that the relationship between the defendant and the victim meets the federal definition of an "intimate partner" relationship?
- Have I taken steps to insure that the law is complied with?
- Do court officials in my judicial circuit take the steps necessary to have any convictions involving domestic violence registered with state and federal clearinghouses to prevent subsequent firearms purchases?

¹²547 U.S. 103(2006).

¹³U. S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Costs of Intimate Partner Violence Against Women in the United States 19 (2003)

¹⁴Georgia Domestic Violence Fatality Review Project Report (2006). The entire report can be accessed at www.gcfv.org/Fatalityreview2007.pdf.

¹⁵18 U.S.C. §922(g)(9).

¹⁶The following procedural safeguards much have been in place concerning the offense:

1. The person was represented by counsel in the case or knowingly and intelligently waived the right to counsel; and

2. If the person was entitled to a jury trial under the offense, the case must have been tried by a jury or the defendant knowingly and intelligently waived the right to have the case tried by a jury.

¹⁷18 U.S.C. §921(a)(33)(B)(i)

¹⁸U.S. v. Griffith, 455 F. 3d 1339 (2006), cert. den. 2007 U.S. LEXIS 4020 (April 16, 2007).

¹⁹Other charges that might fall within the restrictions if physical or attempted physical force are shown or if there is a threat with a deadly weapon are: harassing phone calls, interference with a 911 call, cruelty to children in the third degree, sexual battery, kidnapping, or false imprisonment.

²⁰18 U.S.C. § 921(a)(33)(A)(ii)

²¹18 U.S.C. §924 (a)(2).

²²In Georgia, of the 372 people killed in family violence fatalities from 2003-2005, gunshots were three times more likely to be the cause of death than any other weapon. Georgia Domestic Violence Fatality Review Project Annual Report (2006). www.gcfv.org/Fatalityreview2007.pdf.

²³93 Am.J. Public Health 1089 (Jul 2003).

²⁴The relationship test is met if the defendant is a current or former spouse, parent, or guardian of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or a person similarly situated to a spouse, parent, or guardian of the vic-

tim. 18 U.S.C. §921(a)(33)(A)(ii).

²⁵The VAWA amendment has withstood a plethora of legal challenges throughout the country, including the Eleventh Circuit. In that case, the United States Court of Appeals held that 18 U.S.C. § 922(g)(8) was constitutional and upheld an abuser's conviction for illegal gun possession. *United States v. Cunningham*, 161 F. 3d 1343 (11th Cir. 1998).

The Georgia State Constitution and the United States Constitution use similar language giving citizens a right to bear arms. The Georgia Constitution, however, specifically allows reasonable restrictions on gun possession. "The General Assembly shall have power to prescribe the manner in which arms may be borne." GA. CONST., Art. I, Sect. I, Para. VIII. The Georgia Supreme Court has recognized circumstances in which limitation of the right to bears arms is constitutional and appropriate. "The prohibition of keeping and carrying certain kinds of weapons is justified for the purpose of preventing crime, under the general police power of regulation of the states." *Carson v. United States*, 241 Ga. 622, 627 (1978).

Short Takes!!!

LAST CALL FOR GOLF TOURNAMENT

The 9th Annual CMCJ Golf Tournament will be held Wednesday afternoon, June 25, 2008 at 1:00 p.m. at the Southbridge Golf Club in Savannah. Interested persons should contact John Adams, City of Folkston, Fax 912-496-4737 or e-mail: tellno1@alltel.net immediately. Deadline: June 2, 2008 at 1:00 p.m.

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PAC NEEDS NAMES OF SOLICITORS!!

The Prosecuting Attorneys Council (PAC) reports that they are largely unaware of which attorneys are filling the position of Solicitor/Prosecutor for municipal courts. You can help!! Please send the name and mailing address of your Solicitor/Prosecutor in Municipal Court, on letterhead, to the Prosecuting Attorneys Council (PAC), 104 Marietta Street NW, Suite 400, Atlanta, Georgia 30303-2743. 404-969-4001 phone; 404-969-0020 fax; info@pacga.org.

See <http://www.pacga.org/training/pac.shtml> for upcoming classes. Check back often. New classes are posted as they become available.

MUNICIPAL COURT CLERK TRAINING

Judges, if your Chief Court Clerk* has not signed up for mandatory training for this year, only one opportunity is still available:

Recertification • Tifton • November 13

Contact ICJE for Registration Forms and Schedules. 706-542-7402

* The chief clerk is “the primary person most directly responsible for the administration of a municipal court other than a judge of the municipal court.”

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BEHIND THE BENCH – NEW FEATURE

The approved minutes of the Executive Committee and Business meetings for 2007 and 2008 are now posted in entirety in the Behind the Bench section of the Council’s website: <http://www.georgiacourts.org/councils/municipal/> If you do not know the Username and Password for the Behind the Bench section, please send an e-mail with your name and court to municouncil@gaaoc.us.

TRAFFICJUDGES LISTSERV – HOW TO UPDATE!

The Council of Municipal Court Judges has added all municipal judges to the TrafficJudges listserv as of the end of April. Used responsibly, this is a great way to receive instant feedback for a problem, or to share new caselaw, or to discuss the fine points of law with your colleagues. If you are not receiving the messages, or would like to receive these e-mails at a different e-mail address, please update your information by e-mail to municouncil@gaaoc.us, or by phone to Leslie Johnson, 404-651-6327

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TRAINING POLICY CHANGED

Municipal Judges who serve as judges in other classes of court must still attend municipal training (12 hours) every other year. If you aren’t sure whether you need municipal training in 2008 or not, please fill out a ‘Request for Training Status’ on the Council’s website at <http://www.georgiacourts.org/councils/municipal/> ; click on “Meeting and Training.” You should receive a reply within one week. Or you may contact Ms. Leslie Johnson at 404-651-6327 or e-mail municouncil@gaaoc.us .



Your Council at Work For You

The April 2008 meeting of the Council of Municipal Court Judges was attended by over 30 judges and court administrators.



2008 MUNICIPAL COURT JUDGES' REGISTRATION FORM

Return this form to ICJE, 123 Dean Rusk Hall, UGA, Athens, GA 30602. Make the check made payable to ICJE.
FEE STRUCTURE: If we receive your fee check by February 28, the fee is \$225, for a \$100 savings. If you miss the February 28 savings incentive date, the registration fee is \$325. You may attend more than one course for the one fee, based on availability of the second course.

Questions, contact: Kathy Mitchem: 706/542-7402, kathy@icje.law.uga.edu
 or Stacy Harvey: 706-542-8248, stacy@icje.law.uga.edu

Name _____

Judge of City of _____ e-mail _____

Phone _____ Are you now a Municipal Judge? _____ Have you sat in the past year? _____

Preferred Mailing Address _____

Do we need to contact you about: Physical needs _____ Dietary needs _____

Course descriptions www.uga.edu/icje

2008 Course Title	Credit	2008 Dates	Location	Slots
New Judge Certification	20 hours	June 25-27	Marriott, Savannah	25
Traffic Law and Practice Update	12 hours	June 26-27	Marriott, Savannah	200
Traffic Law and Practice Update repeat of June 12 hour class	12 hours	September 11 - September 12	Georgia Center, Athens	100
*Pharmacology of Drugs	12 hours	October 30-31	UGA, Athens	20
Spanish for Judges	12 hours	November 20	Rural Development Center, Tifton	30

An * indicates a PEP class (Personal Enrichment Program), designed for judges from all classes of court. These courses count towards your municipal credit. Remember, if you sign up for a 20 hour course, you must attend all 20 hours. Register for these courses the same way you register for the others listed.

REGISTRATION: List the seminar you wish to attend from the above list.

Course _____

Date: _____ Location _____

Below is for ICJE use:

Meet Your Leaders!

Judge Charles Barrett



Judge Charles L. Barrett, III currently serves as the Chief Judge of the Municipal Courts of Duluth and Lilburn. He is also Judge, Pro Hac Vice for the City of Sugar Hill. Judge Barrett earned his undergraduate degree at Georgia State College, and his law degree at Emory University.

Judge Barrett is active in The Council of Municipal Court Judges of Georgia, and is a past president of the organization. He currently chairs the legislative

committee of the Council. Prior to taking the bench in 2006, Judge Barrett practiced with the Duluth firm of Blackburn, Walther, Sloan and Adair, and is a member of the Gwinnett County Bar - Association, the Lawyers Club of Atlanta, and the Duluth Kiwanis Club. He is also a contributing author to "An Introduction to Law in Georgia" (Carl Vinson Institute of Government, The University of Georgia 1985). He looks forward to any opportunity to speak on the judicial system, and, particularly, about the role of the municipal courts.

NOTICE OF ELECTION

Thursday, June 26, 2008

12:00 noon at Savannah
Riverfront Marriott.

Officers, District
Representatives, and
Training Council members
will be voted upon.

PLEASE PARTICIPATE

Council of Municipal Court Judges

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



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