

County Court Courier

Volume 7, Number 1, Spring 2002

Congratulations, Judges!

New Judges Join Conference, Conference Members Appointed to Circuit

The Conference is proud to welcome newly appointed county judges to the Conference, and congratulate those county judges who have been honored by appointment to the circuit bench.

In the 4th Judicial Circuit, Duval County Judge Linda F. McCallum was appointed to the circuit bench on November 26, 2001, and has been assigned to juvenile dependency.



Circuit Judge Linda F. McCallum
Duval County

In the 6th Judicial Circuit, made up of Pinellas and Pasco counties, County Judges Robert Morris and Thomas McGrady have been appointed to the Circuit Court. On

January 1, 2002, Judge McGrady commenced his new assignment in the family division. Judge Morris was appointed by Governor Jeb Bush on November 15, 2001, and assigned to the Unified Family Court which consists of delinquency, dependency and connected domestic violence/dissolution cases.

In the 9th Judicial Circuit, made up of Orange and Osceola counties, the Conference is pleased to welcome newly appointed Judge Jeff Fleming. Primarily practicing in the civil arena, Judge Fleming is a graduate of UCF and FSU College of Law. He is the father of four who finds time to coach basketball and soccer while answering his call to serve his community.

"Being a judge is the best way for me to

serve my community and make a difference," Judge Fleming said. "I look forward to contributing toward the strengthening of our criminal justice system."

In Dade County's 11th Judicial Circuit, the Conference is proud to announce the appointments of Judge Henry Leyte-Vidal and Judge Bertila Soto to the circuit court. Soto, 38, fills the seat of the late Judge Steven Levine, killed in a December car



Circuit Judge Fred Seraphin
Miami-Dade County

accident. Governor Bush also appointed Assistant State Attorney Israel "Izzy" Reyes to a county court seat. Reyes, 42, had served in the Public Defenders Office for the past 15 years.

We also welcome new County Court Judge Fred Seraphin. Judge Seraphin is our first Haitian judge, born in Port-au-Prince. His family migrated to Queens, New York, when he was 12, and later moved to Miami in 1986. A graduate of Hofstra University School of Law, Judge Seraphin practiced in the areas of criminal law, family law, and dependency and delinquency. In 1995, he returned to Haiti as part of a Department of Justice felon trial project, assisting in the prosecution of those charged with several high profile murders. Judge Seraphin is married to Barbara, and is the father of two children, ages 17 and 12. He remains active in the Haitian community as president of the Haitian Family Neighborhood Resource Center and

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UPCOMING EVENT

Spring Workshop
April 22-24, 2002
Hyatt Regency
Orlando International Airport
9300 Airport Boulevard
Orlando, FL 32827

President' Message



Judiciary Continues to Face Challenges from Legislature

My recent trip to Tallahassee reinforces my concern that an independent judiciary continues to face challenges from the Legislature. Though many of the proposals appear to be well meaning, many of them threaten an essential component of a healthy democracy separation of our government into three strong and independent branches.

The House Committee on Judicial Oversight had before it a proposal to strip away the confidentiality of JQC complaints prior to a finding of probable cause by the Judicial Qualifications Commission. Of course, the JQC is governed by the Florida Supreme Court not the Florida Legislature and its roles are promulgated by our highest court. The Florida Constitution provides for the JQC, its makeup and operation. Even if this proposal were a good one, which I believe it is not, this is an issue for the Florida Supreme Court to address, not the Florida Legislature.

Fortunately, the JQC Chair, Judge James Wolfe, of the 1st District Court of Appeal, Circuit Judge Stan Morris and I appeared before the Committee, and along with our efforts, the proposal was defeated.

Additionally, the Criminal Justice Appropriations Committee is considering not renewing the Court Education Trust Fund. This trust is for judicial education, including the College of Advanced Judicial Studies, Florida Judicial College, and all Winter Educational Conferences.

As you know, issues can develop quickly. We may need your assistance to help educate your legislators on issues important to the judicial branch. It would be helpful if you would contact your local Circuit Court Representative to discuss the various proposals so that we can better provide any necessary information to the Legislature.

Cordially yours,

Jeff Colbath
President

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Letter from the editor



Budget Cuts and DUI Legislation Affect Judges

It has been almost six months since the last Courier was published due to budget curbs. Budget seems to be the issue du jour of our Conference, our State, and more specifically, our Legislature. Because of 9-11, our tourist trade has declined, our State's revenue dollars have decreased, our judiciary has forfeited a cost of living increase in salary, and funding for our judicial educational conferences is being threatened.

This issue of the Courier has been downsized to save publication costs. The lead story was chosen to congratulate and honor the judges in our Conference who have been promoted to Circuit seats, and to welcome our new county judges to the Conference. Judge Mark King Leban, our Dade County chair of the Conference Education Committee, has invited all of our judges, including our new judges, to become involved in the judicial educational process by becoming conference instructors. Please contact Judge Leban for further information.

Our Conference Spring Board meeting, scheduled for April 22-24 in Orlando, will offer a new slate of officers for the upcoming July, 2002-July, 2003 year. The Board will also consider proposed amendments to the by-laws, which committee is chaired by Judge Jimmy Dominguez. Contact your circuit representatives or your conference officers directly so that your nominations, ideas and suggestions can be considered.

One of the bills, which passed the Florida Legislature in the 2002 session, is House Bill 1057 co-sponsored by Representatives Simmons and Slosberg. Since 1/3 to 1/2 of us are exclusively criminal judges, and many others sit in a blended docket of criminal and civil cases, it contains very important changes in the law relating to DUI and BUI.

House Bill 1057, which becomes effective on July 1, unanimously passed both the House and Senate on March 21. What about section 316.193, F.S. was in such need of overhaul? Well, for one thing, many of the legislators and some very vocal State Attorneys are sick to death of refusals. And so and at last, the Legislature has made it a first-degree misdemeanor to refuse to give a breath, urine, or blood sample if the defendant has previously refused. Even if DMV later determines administratively that the refusal should be thrown out, the misdemeanor refusal stands.

For boaters, the previous law punished refusers with a \$500 civil penalty. Now, they will also face a first-degree misdemeanor if they have previously refused.

Additionally, the new law reduces the number of convictions required for a felony DUI to three instead of four, if the first three occurred within 10 years. County judges will now give up third DUIs occurring within 10 years, which now become third-degree felonies, to the Circuit judges. If the third DUI occurred outside of 10 years, the case remains in county court.

Because DUI refusal cases make up a large portion of our jury trial dockets, it will be interesting to see how the creation of a new crime for refusing affects these trials, the plea negotiations, and our caseloads. The charge of DUI and the charge of refusing necessarily must be severed to protect the inadmissibility of defendant's priors. Stay tuned for this summer's educational conference directed to these new issues.

PEGGY GEHL, Editor

Up Coming Events



Spring Workshop (April 22-24, 2002)
Hyatt Regency
Orlando International Airport
9300 Airport Boulevard
Orlando, FL 32827

Summer Educational Conference
(July 10-12, 2002)
Sanibel Harbour Resort and Spa
17260 Harbour Pointe Drive
Fort Myers, FL 33908

Fall Workshop (October 2, 2002)
Tentative schedule
Royal Palm Crowne Plaza
1545 Collins Avenue
Miami Beach, FL 33139

Next Deadline

The Next Deadline for the
County Court Courier:
 July 31, 2002

Winter Conference in Amelia Island

Judge Bill Slaughter and wife



Judges Caryn Schwartz, Cristina Pereyra-Shuminer, Shelley Kravitz



Resolution

Of Conference of County Court Judges Re: Use of Senior Judges

WHEREAS the traditional practice of having Senior/Retired Judges sit as Judges on a case-by-case basis and

WHEREAS this practice has only been permitted with the approval of the Supreme Court and the Chief Judge of the local Circuit and

WHEREAS this practice has saved taxpayers of the State of Florida substantial dollars and

WHEREAS the practice permits flexibility of Chief Judges for efficiently administering the dockets within the Circuit and

WHEREAS the continuation of this practice is currently being litigated, be it

RESOLVED that the Conference of County Court Judges of the State of Florida has passed this resolution in support of continuing the ongoing practice of the use of Senior/Retired Judges in their current capacity.

Jeffrey J. Colbath, President

Dated this 19 day of January, 2002.

L-R Judges Gus Aikens, Buzzy Heinrich, Mary Catherine Green, Tim Coon



L-R Judges Lou Schiff, Lee Seidman, Gary Cowart



Middle: Judge Patti Christensen, Seventh Judicial Circuit



Committee Reports

Criminal Rules Committee

Judge Olin W. Shinholser, Chair

The committee members were advised of and discussed three pending issues before the Florida Bar Criminal Rules Committee:

Whether judges should be required or have the discretion to give jury instructions before closing arguments.

Whether a rule should be created addressing whether and how jurors may ask questions of witnesses during trial.

Judgments of acquittal. The obligation of the court, if any, when the state fails to allege in the information/indictment, or prove a material element of the offense, and the defense fails to raise the issue during the judgment of acquittal at the end of the state's case.

The committee also discussed term limits for members of Florida Bar committees. It was the general consensus that term limits are not desirable.

Florida Supreme Court Justice Major Harding addresses judges



L-R President Jeff Colbath, Judge Jimmy Dominguez



Palm Beach County L-R Judges Barry Cohen, Paul Boyle, Jeff Colbath, Corey Ciklin



Judge Bob Brown



Center Judge Michael Andrews, Pinellas



L-R Judge Bob Zach, Judge Peggy Gehl, Judge Jeff Arnold, Judge Woody Hatcher



Committee Reports

Civil Rules Committee

Judge Ron Legendre, Chair

Karl Grube reported on the Florida Bar Civil Rules Committee meeting:

An amendment to Rule 1.200(a) to add a paragraph to give a judge discretion to have a witness appear at a trial; by electronic means and allow an attorney to represent a witness by electronic means. This may require a re-examination of Rule 2.071(d).

To amend Form 1.988 (b) to permit interest on prejudgment interest, so it will conform to case law.

Amend the rules to require a movant to make a good faith effort to resolve discovery before filing a motion to compel.

A Fact Information Sheet for debtor corporations (attached to the final judgment) similar to the existing one for individual debtors.

The consensus of the committee was to oppose the repeal of Rule 1.420(e) Failure to Prosecute.

Any judge wishing to add an item to the Committee agenda should send the request to Judge Legendre prior to the meetings.

Editorial Committee

L-R Judge Lisa Trachman (Fourth DCA VP), Judge Dave Ackerman (First DCA VP), Judge Peggy Gehl (Broward County) Editor, Judge Doug Henderson (Second DCA VP), Judge Mark King Leban (Third DCA VP)



L.R. Judge Jeff Arnold, Judge A. B. Majeed



Committee Reports

Juvenile and Family Law Committee Judge Bonnie Lano Rippingille, Chair

The Juvenile and Family Law Committee is pleased to report that Judge Krista Marx has implemented a Sisters of the Heart program in Palm Beach County patterned after the successful Miami/Dade County program founded by Judge Bonnie Rippingille in 1999. Judge Marx and her program were featured in a recent article in the Sun Sentinel. Congratulations to Judge Marx for her hard work and commitment.

Sisters of the Heart is a mentoring and cultural enrichment program for at-risk girls in alternative schools and commitment facilities under the control of the Department of Juvenile Justice. The goal of the committee is to assist judges throughout the state in developing this program in their jurisdiction. Judges Myra Scott McNary and Amy Wilson have indicated their interest in starting this program in Pinellas County.

This Juvenile and Family Law Committee is working on setting up a presentation for the Summer Conference 2002 on how to establish the program in your jurisdiction. We would be pleased to hear from anyone who is interested in beginning this program in your jurisdiction. Contact Judge Rippingille at brippingille@jud11.flcourts.org

P.E.C.T. from the Seventh Circuit: St. Johns, Flagler, Putnam and Volusia counties

By Judge Patti Christensen



County Judges Give the Public Understanding of the Judicial System

We are engaged in an aggressive effort in the 7th Circuit to reach out to individual citizens, civic groups and school classes.

Last month, two seventh grade classes from the local junior high school held a mock trial in a county courtroom. The trial replicated one held involving a wrongful death claim against the company operating the Titanic. The teens selected students to play the roles of attorneys, parties, witnesses, jury, bailiff and judge. I participated as the shadow judge.

As an introduction, I briefed the students on the physical aspects of the courtroom, courtroom procedures and rules of evidence. I conferred on rulings as the students conducted the trial. It was a true learning experience for these young people who have been studying the three branches of government. Being in a real courtroom made it a more dynamic and meaningful experience for them.

I also took an opportunity to participate in a fair at the local mall. The constitutional officers took part as well as the sheriff's department. Our Circuit had its own booth and we distributed information about small claims court, how to collect judgments, and eviction proceedings.

This month, the local Bar has agreed to sponsor a workshop for the general public on small claims and eviction proceedings. The program will include several local attorneys as well as a county judge. Attorneys will conduct a question and answer session. I have also asked the Bar to consider sponsoring a People's Law School similar to the one held by the Clearwater Bar. The series of classes would cover a wide range of legal topics that would be of interest to a diverse group of people.

Next month, we will hold an open house where we showcase our courthouse as well as the career professionals who support the judicial system. Included will be the traditional participants judges, public defenders, state attorneys, probation officers, clerks and jury coordinators. We will also spotlight lesser-acclaimed professionals, including bailiffs, translators, guardian ad litem representatives, court reporters and others. We'll ask all groups to explain their roles and participation in the system.

Our state legislators have been invited to this special event, along with members of the local Chamber of Commerce and Council on Aging (our senior citizen group.) This will be a great opportunity for legislators and leaders in the community to meet our personnel.

All the county judges in our Circuit are encouraged to participate in the P.E.C.T. program and to speak about the judicial system to civic groups and school classes. We are also asking our judges to consider offering tours of the courthouse to these groups.

Congratulations Judges, *continued from 1*

holds several positions in the St. James Catholic Church.

In the 12th Judicial Circuit, made up of DeSoto, Manatee and Sarasota counties, it is with pride that the Conference welcomes back Manatee County Judge George Brown. Judge Brown was defeated by Judge Matt McMillan in 1998 after 16 years of service on the bench. Judge



Circuit Judge Ken Stern
Palm Beach County

McMillan was removed by the Florida Supreme Court for ethics violations, some of which arose out of election violations during his campaign.

Judge Kenneth

Stern was appointed to a Palm Beach County circuit seat in October, where he has been assigned to the criminal division. Judge Stern's position on the Conference Board of Directors as the Circuit Representative for the 15th Judicial Circuit has been filled by County Judge Debra Moses Stephens.

The Conference welcomes newly appointed Palm Beach County Judge Paul Damico.

The 17th Judicial Circuit welcomes newly appointed Broward County Judge Lee Seidman. A graduate of Emory University School of Law, Judge Seidman served as one of Broward County's General Masters for nearly three years prior to his appointment in December. Prior to his selection as a General Master, Judge Seidman served Broward County as an assistant state attorney from 1984 to 1998.

In the 18th Judicial Circuit, made up of Brevard and Seminole counties, County Judge Mitch Barlow has been appointed to a circuit seat, and the Conference welcomes newly appointed County Judge George Turner.

In the 20th Judicial Circuit, made up of Charlotte, Collier, Glades, Hendry and Lee counties, the Conference welcomes newly appointed County Judge Frank Porter. Congratulations, judges, and welcome!

By-law Amendments

Conference by-laws are currently being reviewed by the Administrative and Management Committee to determine necessary amendments. These recommendations will be submitted to the Conference for approval.

Notice of all proposed amendments must be given thirty (30) days prior to any vote. The proposed amendments must receive a two-thirds (2/3) vote of the members in attendance at the meeting.

Currently, the Summer 2002 Educational Conference at the Sanibel Harbour Resort in Ft. Myers is targeted as the meeting to vote on these proposed amendments. In April, the Committee's recommendations will be offered to the Board at the spring meeting in Orlando. Anyone suggesting an amendment or an area in need of amendment should send the proposal to: Committee Chairman, Judge James V. Dominguez, 801 East Twiggs Street, Room 253, Tampa, FL 33602.

If you have any questions, or wish further information, you can contact Judge Dominguez, at 813-272-5228.

Judge Kaylor Receives Chief Justice's Commendation

Judge Anne Kaylor has received the Chief Justice's Commendation for her leadership in technology for her work as webmaster for the Tenth Judicial Circuit as well as her maintenance of the website for the Conference.

In his commendation, Chief Justice Charles T. Wells wrote that Judge Kaylor is commended for outstanding service above and beyond the call of duty in her volunteer work as webmaster for the Tenth Judicial Circuit's website, which she created and maintains. Judge Kaylor contributes countless hours of personal time to this duty so that the public she serves can obtain the latest information about court dockets, opinions on appeal from County Court, and other important information. She obtains and places opinions of the Second District Court of Appeal on line within forty-eight hours of release, and has collected and placed on this website authentic photographs of Florida's county courthouses along with historical information about each one. Judge Kaylor also maintains the website for the state Conference of County Court Judges. Her work in service to Florida has included novel uses of technology to assist in creating court records, meeting a serious need caused by a local shortage of court reporters. For this exemplary service, she is hereby commended.

Qualifying for Judicial Office

On the final day of this year's Regular Session, the Legislature passed CS for SB 618 requiring candidates for judicial office to qualify earlier than provided under current law. This provision was originally contained in SB 1978 and included a delayed effective date, but when it was rolled into the general elections bill, the earlier qualifying period was made effective upon becoming law.

Under Section 105.031, Florida Statutes, as amended by the Legislature, the qualifying period will be moved forward more than two months. Rather than a date in late July, the new qualifying period will be set in early May. In 2002, the legislation, which is expected to be signed by the Governor, will require candidates for judicial office to qualify no earlier than noon on Monday, May 13, and no later than noon on Friday, May 17.

This will also shorten the period during which judicial candidates may seek to qualify by means of the petitioning process. Under Section 105.035, candidates must submit petitions prior to noon on the 21st day preceding the first day of the qualifying period, or, in this new time frame, before noon on April 22.

Call for Presenters

Judge Mark King Leban

On behalf of the Education Committee, I invite all judges in our Conference to volunteer to be presenters at our Winter and Summer Conferences.

You need not be a member of the Education Committee to be a presenter. All that is required is that you take the faculty training class offered once a year. Please let any of the members of the Education Committee know if you are interested.

You can contact me at (305) 349-5756 or Vice Chairs Carolyn Freeman at (407) 836-2093, or Joel Lazarus at (954) 831-5842.

Comments, Opinions, Observations, Suggestions, Ideas?

The Courier welcomes letters to the editor.

Send or fax letters to the editor:

Judge Peggy Gehl, 201 S.E. 6 Street, Ft. Lauderdale, Florida 33301

Fax (954) 831-8546

Address changes should be submitted in writing to Judge Gehl at the below address or by fax at (954) 831-8546



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