

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND



FISCAL YEAR 2004 ANNUAL REPORT

Benson Everett Legg
Chief Judge

Felicia C. Cannon
Clerk

DISTRICT JUDGES

Benson Everett Legg, Chief Judge

Active Judges

Catherine C. Blake
Richard D. Bennett
Deborah K. Chasanow
Andre M. Davis
Peter J. Messitte
J. Frederick Motz
William D. Quarles, Jr.
Roger W. Titus
Alexander Williams, Jr.

Senior Judges

Marvin J. Garbis
William M. Nickerson
Frederic N. Smalkin

MAGISTRATE JUDGES

Jillyn K. Schulze, Chief Magistrate Judge

Full-Time

James K. Bedard
William Connelly
Charles B. Day
Thomas M. DiGirolamo
Susan K. Gauvey
Beth P. Gesner
Paul W. Grimm

Part-Time

Victor H. Laws, III

BANKRUPTCY JUDGES

James F. Schneider, Chief Judge

Active Judges

Duncan W. Keir
Paul Mannes
Nancy M. Alquist

Senior Recalled Judges

E. Stephen Derby

COURT UNIT EXECUTIVES

Felicia C. Cannon, Clerk, U.S. District Court

Mark Sammons, Clerk, U.S. Bankruptcy Court
William Henry, Chief, U.S. Probation and Pretrial Services Office

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DISTRICT COURT

On November 26, 2003, Roger W. Titus was sworn in to the District Court Bench. Judge Titus replaced Judge Marvin J. Garbis, who took senior status on June 12, 2003, but continues to handle a substantial caseload.

Senior Judge Alexander Harvey, II elected to take inactive senior status on January 30, 2004. Judge Harvey received his commission as United States District Judge on September 22, 1966. He served as chief judge from February 1986 until March 8, 1991, when he took senior status.

On June 30, 2004 Magistrate Judge Thomas M. DiGirolamo was appointed as a full-time Magistrate Judge in the Southern Division. Judge DiGirolamo, who served previously as a part-time magistrate judge, will have a formal investiture ceremony on November 5, 2004.

The fiscal year ended with the swearing in of the first female Bankruptcy Court Judge in the District of Maryland, Nancy M. Alquist, on September 30, 2004. Judge Alquist replaced Judge E. Stephen Derby, who retired on January 31, 2004 and returned to the bench in recall status on February 1, 2004. Judge Derby has served as a Bankruptcy Judge since November 7, 1986.

Statistical Summary

The reports we have filed under the Civil Justice Reform Act for the last year reflect the following number of total motions pending for six months or more:

<u>Period Ending</u>	<u>Total Number of Reportable Motions</u>
March 31, 2004	11
September 30, 2004	10

The Court uses an individual case assignment system. In statistical year 2004, we had 4513 filings, meaning an average of 391 civil cases and 50 criminal cases per judge. On average, each just had 24 jury trials. Our District weighted case filing per judgeship was 474, which is slightly above the national average.

Seven multidistrict litigation (MDL) cases are assigned to judges on our Court. The newest is the Mutual Funds Litigation, which is a highly complex piece of litigation. Four master MDL cases were established, with a judge assigned to each. The assigned judges are Judges Blake, Davis and Motz from our District and Judge Frederick P. Stamp, Jr. from West Virginia. Judge Motz, who serves on the MDL panel, is taking the lead. The litigation includes 411 cases, with new cases arriving monthly. Judge Motz has worked with the IT Department to establish a web page devoted to MDL litigation.

Other pending MDL cases include:

- (i) Allegheny Energy Securities Litigation, which was assigned to Judge Andre M. Davis and involves sixteen cases;
- (ii) Royal Ahold Securities/ERISA Litigation, which was assigned to Judge Catherine C. Blake and involves thirty-seven cases;
- (iii) ProtoGen Sling and Vesica System Products Liability Litigation, which was assigned to Chief Judge Benson E. Legg and involves 576 cases;
- (iv) Microsoft Corporation Operating Systems Antitrust Litigation, which was assigned to Judge J. Frederick Motz and involves forty-nine cases; and
- (v) Wireless Telephone Radio Frequency Emission Products Litigation, which was assigned to Judge Blake and involves three cases.

Cruciferous Sprout Patent Litigation, which was assigned to Judge William M. Nickerson and involved three cases, was closed in September 2004.

In statistical year 2004, 490 criminal cases were filed, involving some 833 felony defendants. Several criminal trials were. Judge Catherine Blake presided over a three month death penalty trial, and Judge William Quarles had a three month wire and securities fraud trial.

The Court implemented new procedures to comply with the reporting requirements of the PROTECT Act.

The Court also handled 8803 mandatory appearances for class A, B or C misdemeanors as well as the largest volume of petty offenses in the country. The Court disposed of 43,903 citations.

Office of the Clerk

In Fiscal Year 2004, the Clerk's Office continued to decrease staffing in anticipation of the bleak budget forecast projected for Fiscal Year 2005. Although the District Court Clerk's Office was authorized for 83.5 work units, with an additional 2.0 work units authorized during the course of the year, our "on-board" staffing at the end of September 2004 was 77.875 work units. Reduction in staffing was accomplished through a combination of regular retirements, early-out retirements, and unfilled vacancies. Additional anticipated retirements in early Fiscal Year 2005 should bring on-board staffing down to 72.375 work units by the end of the fiscal year.

The tight budget also promoted the Clerk's Office to eliminate or reduce a number of staff benefits, including the tuition reimbursement program, the performance incentive awards

program, and the transit the transit subsidy program.

The Clerk's Office has reduced public hours, and at the request of the U.S. Attorney's Office, the Court extended the term of regular grand juries to eighteen months. This has eased the burden on the jury section caused by impanelling new grand juries every three months.

The Court will continue to investigate cost-saving measures. There is not much discretionary spending left from which cuts could come, however.

Personnel and Training Support

In order to increase efficiency, all clerks have been cross-trained.

Counter-intuitively, the March 3, 2003 implementation of CM/ECF increased the workload of the Clerk's Office due to the need for quality control and training. Our experience reflects that of the rest of the country.

The Court conducts periodic CM/ECF training programs for Court staff, attorneys, paralegals, legal secretaries, non-court users, and interested law firms and bar associations. The District of Maryland is the CM/ECF mentor Court to the Northern District of Alabama and the Northern District of North Carolina.

Public Outreach

The Federal Court Liaison Committee is a joint committee of the Federal Bar Association and the Maryland State Bar Association on which several judges serve. The Committee meets every other month to discuss local practice, rules and procedures and joint ventures of the Bench and Bar. The Court also maintains a close working relationship with the Maryland chapter of the Federal Bar Association. On May 14, 2004, the Federal Bar Association and the Court's Magistrate Judges presented an educational program for the bar on mediation. Settlement conferences are a prime duty of the Magistrate Judges. Additionally, twice a year the Federal Bar Association sponsors special attorney admission ceremonies.

The Court's most time-consuming project this year was a revision of the Local Rules of the Court. The new amendments were effective August 16, 2004. The rules are reviewed every three years.

The Greenbelt courthouse is located close to Washington, D.C. It hosts visiting judges from a number of foreign countries, including Algeria, Beijing, Bosnia, China, Czech Republic, Ecuador, Guatemala, Malaysia, Mexico, Russia, South Korea, Taiwan, Thailand, and Turkey.

Artwork from local arts councils and a number of Brazilian artists is on display in the

Greenbelt courthouse.

Space and Facilities

The Baltimore Courthouse and annex to the Greenbelt Courthouse are on the current Five Year Courthouse Project Plan. Both projects are on hold due to budget constraints. Because the Greenbelt Courthouse is out of space, the delay of the annex will pose increasing problems as the years pass.

Several projects were completed or are underway in Baltimore, including renovations to the administrative wing of the Clerk's Office, the Courthouse lobby, and a chambers and courtroom for Judge Quarles.

Several projects are also underway in Greenbelt, including a new jury assembly area, Clerk's Office space and permanent judicial chambers, courtroom for Judge Titus, and temporary chambers for Magistrate Judge DiGirolamo.

During this past fiscal year, the Clerk diverted funds from tenant alterations and cyclical maintenance to cover payroll. This of course cannot continue indefinitely.

CRIMINAL JUSTICE ACT (CJA) SUPERVISING ATTORNEY

In a district such as ours with a large criminal caseload, the services of the CJA Supervising Attorney, Ms. Donna Shearer, are invaluable. So much so, that we make room in our budget for Ms. Shearer's salary. The cost is borne by the Clerk's Office and Mr. Henry's Unit, both of which are benefitted by the work of our Supervising Attorney.

Ms. Shearer reviews for reasonableness and approves all vouchers. The number of vouchers has almost doubled since FY 2000.¹ Ms. Shearer reviews and makes recommendations on each request under the CJA for money to pay expert witnesses and investigators. She also keeps track of interim payment requests. Because of Ms. Shearer's experience in reviewing voucher claims, she brings uniformity, fairness, and a practiced eye to the process. Ms. Shearer is also able to spot savings, and the reductions on voucher claims that she negotiated with defense counsel in FY 2004 totaled \$159,669.78.

¹ The voucher totals for the past five fiscal years are:

FY 2000	692 vouchers processed for payment
FY 2001	788 vouchers processed for payment
FY 2002	723 vouchers processed for payment
FY 2003	1,048 vouchers processed for payment
FY 2004	1,162 vouchers processed for payment.

Ms. Shearer works with local detention facilities to improve attorney visiting conditions and approves and schedules contact visits for counsel. She is also an institutional resource for the panel attorneys and can provide them with advice on CJA policies and procedures.

Ms. Shearer assigns counsel in criminal cases. This is time-consuming, particularly in cases involving multiple defendants. Her goal is to make sure all defendants are represented at the initial appearance.

Ms. Shearer oversees the panel application process for the CJA Committee and schedules duty day attorneys for the misdemeanor dockets.

The following is a comparison of yearly CJA payments:

Payments	FY 2001	FY 2002	FY 2003	FY 2004
Attorneys	\$ 1,386,290.97	\$ 1,339,922.00	\$ 2,636,592.33	\$ 2,810,010.44
Experts (felony & capital cases)	\$ 115,915.73	\$ 56,895.69	\$ 201,862.18	\$ 302,185.54
Total Paid*	\$ 1,597,145.35	\$ 1,527,595.36	\$ 2,975,871.41	\$ 3,258,731.88
Total Capital Case Costs	\$ 374,010.62	\$ 191,524.23	\$ 986,193.74	\$ 1,295,774.41
% CJA Costs attributed to capital cases	23%	12%	33%	40%

*this figure includes transcript and GTA costs.

Ms. Shearer's job is particularly important to our district because of the high number of capital and capital-eligible cases filed here. Sixteen capital-eligible prosecutions were filed in FY 2004 alone. In FY 2004, 40% of CJA expenditures were incurred in these cases. Ms. Shearer has primary responsibility for developing the budget in those cases. Because of the high cost and complexity of capital cases, this is a difficult undertaking. Once a budget has been established, she monitors the vouchers to ensure that costs are consistent with it. In FY 2004, two capital cases were tried to completion. The jury found the defendants guilty but declined to impose the death penalty.

Ms. Shearer helped draft the amendments to the CJA plan for the district, which were adopted on May 4, 2004. Ms. Shearer is also a resource for the Defender Services Division, and she helped create a budget for a capital habeas case in the Northern District of Georgia.

PRO SE STAFF ATTORNEYS

This year, the overall percentage of the civil caseload presented by prisoner and non-prisoner *pro se* litigants represented slightly more than one-quarter of all civil filings in the district. Habeas corpus filings decreased during the first part of the year, then increased subsequent to the Supreme Court's decision in *Blakely*.² Total prisoner filings remained fairly constant.

Fewer "frivolous" civil rights actions are being filed, as many prisoners are aware of the "three strikes and you're out" provisions of the PLRA. More staff resources are required for resolution of civil rights actions because they are becoming more substantive. Prisoners seem to be increasingly aware of the need to seek habeas relief immediately after exhaustion of trial and appellate proceedings, avoiding procedural barriers to review, and staff attorneys must research more substantive areas. These trends have increased the time commitment required of staff attorneys and their assistants.

UNITED STATES MAGISTRATE JUDGES

While the Magistrate Judges sit primarily in the Baltimore and Greenbelt Courthouses, they hold hearings in many off-site locations Salisbury, Hyattsville, the Aberdeen Proving Grounds, the Andrews Air Force Base, the Annapolis Naval Academy, Fort Ritchie/Fort Detrick, Fort Meade, and the Patuxent River Naval Air Station. The sittings in Hyattsville merit particular mention, as they involve the United States Park Police (USPP) docket and dockets covering the National Institutes of Health (NIH) and five other federal facilities. These dockets involve the largest volume of traffic and parking violations in the country as well as the largest miscellaneous and class A misdemeanor dockets in the federal judiciary.

A great deal of the Magistrates Judges' time is spent conducting settlement conferences. These conferences are not perfunctory. Instead, they often involve days of preparation and meetings in an effort to bring about a negotiated resolution. The bar appreciates the successes achieved by the Magistrate Judges in resolving so many difficult cases that the parties could not resolve on their own.

BANKRUPTCY COURT

For calendar year 2004, 35,334 new cases were filed in the district. Chapter 11 cases increased by nearly 22%. This has led to an increased use of visiting judges. The Bankruptcy

² *Blakely v. Washington*, __ U.S. __, 124 S. Ct. 2531 (2004).

Court implemented its version of CM/ECF in April of 2003.

With cooperation from the bar, the Bankruptcy Court developed a practitioners' guide on removal actions. Many members of the bar served on committees established to assist with the introduction of electronic case filing. A program to introduce new lawyers to the Bankruptcy Court was developed by the Chief Bankruptcy Judge, the Clerk, and the President of the Bankruptcy Bar Association and is now an annual event. Most recently, the Rules Committee of the bar provided feedback on proposed changes to the local bankruptcy rules.

Efforts are underway to relocate the Bankruptcy Court out of the Greenbelt Courthouse to make room for expansion of the District Court. This relocation is set to occur in the summer of 2005.

UNITED STATES PROBATION AND PRETRIAL SERVICES OFFICE

The Probation and Pretrial Services Office supervises nearly 3500 men and women who live in Maryland. Under the District of Columbia Revitalization Act of 2002, the Office supervises a large number of DC parolees who reside in Maryland. This has greatly increased the Office's workload. Like the other Units, the Office's ability to function is being sorely taxed by the straightened budgets.

SUMMARY

The Bench wishes to thank the visiting judges of the District Court and the Bankruptcy Court. The Bench wishes to particularly thank Judges Joseph R. Goodwin and David A. Faber, who always say yes when we ask them to help. The Bench also wishes to thank the staff of the Clerk's Office, District Court, Bankruptcy Court, and United States Probation and Pretrial Services Office as well as the Criminal Justice Act Supervising Attorney and pro se staff attorneys, who have responded to personnel cuts with added hard work. We fear, however, that budgetary constraints have pared away the bone and sinew necessary to carry out our constitutionally mandated work.