



Court of Appeals

Memorandum

To: Presiding Judge Herbert E. Phipps

From: Holly Sparrow *HS*

Subject: Floating Staff Attorney - Assignment to Presiding Judge Miller

Date: March 7, 2011

Per our conversation last Friday, I am attaching the Distress Report for decisions for Presiding Judge Miller for you to consider in her request for use of a floating staff attorney.

DATE: MAR 07,2011

COURT OF APPEALS
DISTRESS REPORT OPINION
SEPTEMBER TERM
SECOND DIVISION

PAGE 1

JUDGE: Miller

CASE#	CAL DATE	STYLE	ASG CODE	(FROM)	STATUS	LC
A10A0884	SEP	BOBBY JENKINS V. DON SMITH	71040		ND	
A10A1614	SEP	MARY MCKINLEY V. COLISEUM HEALT	71074		D	
A10A1632	SEP	STATE FARM MUTUAL INSURANCE V.	71075		D	
A10A1665	SEP	DAMIEN LESTER V. THE STATE	71063C		C	
A10A1745	SEP	EXECUTIVE EXCELLENCE V. MARTIN	71080		D	
A10A1799	SEP	DANIEL PARK V. THE STATE	71068C		D	
A10A1822	SEP	ANTONIO ALEXANDER V. THE STATE	71069C		C	
A10A1830	SEP	FRANK BRANNON V. PERRYMAN CEMET	71084		ND	
A10A1850	SEP	GREENE COUNTY SCHOOL DIST V. CI	71085		ND	
A10A1981	SEP	SOUTHERN CONCRETE/WATKINKS ASSO	71091		D	
A10A2001	SEP	MORTGAGE ELECTRONIC REGISTRATIO	71092		C	
A10A2050	OCT	DEVON BRANDON V. THE STATE	71077C		C	
A10A2084	OCT	LYNDON WILLIAMS V. STATE OF GEO	71095		ND	
A10A2085	OCT	LYNDON WILLIAMS V. MUNICIPALITY	71096		ND	
A10A2120	OCT	JOE BOATRIGHT V. THE STATE	71080C		C	
A10A2127	OCT	HEWITT ASSOCIATES, LLC V. ROLLI	71098		ND	
A10A2143	OCT	SOUTHERN TRADITION INVESTMENTS	71099		D	
A10A2144	OCT	EXECUTIVE EXCELLENCE, LLC V. SO	71100		D	
A10A2214	NOV	SHAUN WEINSTOCK V. NOVARE GROUP	71103		ND	
A10A2319	NOV	LARRY WORKMAN V. SUMMERGROVE CO	71107		ND	
A10A2353	NOV	IN THE INTEREST OF: D. M.	71088C		C	

TOTALS: THIS JUDGE: 21 ND: 008 D: 007 C: 006 W7: 000 W12: 000

DATE: MAR 07,2011

COURT OF APPEALS
DISTRESS REPORT OPINION
SEPTEMBER TERM
THIRD DIVISION

PAGE 2

JUDGE: Miller

CASE#	CAL DATE	STYLE	ASG CODE	(FROM)	STATUS	LC
A10A2343	NOV	R. CHRIS BELANS V. BANK OF AMER	71	99	ND	

TOTALS: THIS JUDGE: 1 ND: 001 D: 000 C: 000 W7: 000 W12: 000
TOTAL CASES THIS TERM: 22



Court of Appeals

Memorandum

To: William L. Martin, III

From: Debbie Zimmerman dz

Subject: A07D0138. Debra Slone v. A & E Real Estate Sales and Management, Inc.

Date: February 12, 2007

In response to your memo about the judges' votes on the above application, I forwarded to Keri both the original motion ticket showing the votes of three judges to grant the motion for reconsideration, and a photocopy of the original order with vote stamp, also showing the concurring votes of all three judges to grant the application. Keri told me over the telephone that she had received this documentation and had showed it all to you. Thus, there was no question in anyone's mind that the motion for reconsideration had been granted and the application also granted by the panel, and that these were "actually the actions of a judge or judges on this Court."

As I mentioned to Keri, I am completely unfamiliar with any policy to strike through previous votes of our judges and replace those signatures with new ones in this situation, where the motion ticket shows that the judges have reconsidered their earlier votes. I asked

Judge Phipps whether he now wishes to strike through earlier signatures in the manner she suggested. He prefers not to do so, because the file would not then reflect the history of the case, which the documents now filed in your office clearly do. Moreover, the IOM procedure for handling applications does not mention striking earlier votes on reconsideration.

I deeply regret expressing my frustration to Keri on the telephone. It never crossed my mind that she was trying to create additional work for me or anyone.

pc: Judge Herbert Phipps
Keri Avera

Court of Appeals of the State of Georgia

ATLAN

The Court of Appeals hereby passes the follow

A06A0071. TERRY HEAD v. THE STATE

Terry Head was tried before a jury on a (1) in Count 1 with burglary of the dwelling home of Cox; (2) in Count 2 with theft by taking property belonging to Cox; (3) in Count 3 with burglary of the dwelling house of Johnny Isakson; and (4) in Count 4 with theft by taking property belonging to Isakson. The jury found Head guilty on each count. The written judgment of conviction and sentence shows that the trial court merged Count 2 into 1 and Count 4 into 3, but imposed only a single sentence: “confinement for a period of 20 (twenty) years”

In *Keller v. State*, 275 Ga. 680 (571 SE2d 806) (2002), the Supreme Court of Georgia set forth the bright line rule: “[W]hen a multi-count indictment is the subject of one trial and the fact finder returns a verdict of guilty on each count of the indictment, the case is not final and subject to appeal until a sentence has been entered on each count of the indictment[, for which the fact finder returned a guilty verdict that was not merged into another count.]” At the sentencing hearing in *Keller*, the trial court “announced it would not impose anything as to [one of the counts for which the jury had found the defendant guilty].” See *Keller v. State*, 252 Ga. App. 813, 817 (3) (558 SE2d 5) (2001). “The trial court did not enter a sentence on [that] count of the multi-count indictment following the jury’s verdict. [The] case thus was not ripe for appeal at that time even though the trial court did enter a written judgment of conviction and sentence on the other counts of the indictment.” *Keller*, 275 Ga. at 681.

In this case, notwithstanding any oral announcement the trial court made at the sentencing hearing, the court failed to enter a sentence on each count of the indictment for which the jury returned a guilty verdict that was not merged into another count. "Under OCGA § 5-6-34 (a) (1), [Head] ha[s] a right to a direct appeal from a final judgment, that is to say, where the case is no longer pending in the court below." *Keller*, 275 Ga. at 680 (punctuation omitted). But, where, as here, "multiple counts of an indictment are tried together and the trial court does not enter a written sentence on one or more of the counts [not merged into another], the case is still pending in the trial court and is not a final judgment under OCGA § 5-6-34 (a) (1)." *Keller*, 275 Ga. at 681.

Accordingly, this case is removed from this Court's docket and REMANDED for entry of a written sentence on each guilty count not merged into another. After such entry, the case may be transmitted to this Court for re-docketing because the notice of appeal, prematurely filed, then will have ripened. See *Heard v. State*, 274 Ga. 196, 197 (1) (n. 2) (552 SE2d 818) (2001); *McCulley v. State*, 273 Ga. 40, 43 (n. 3) (537 SE2d 340) (2000).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 21 2006

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will Z. Mat.  Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 28, 2005

The Court of Appeals hereby passes the following order:

- A06A0120. WILLIAM USSERY FOR THE ESTATE OF ELLA M. USSERY, ET AL. v. SCOTTISH RITE CHILDREN'S HOSPITAL CENTER, INC., ET AL.**
- A06A0121. CHILDREN'S HEALTHCARE OF ATLANTA, INC., F/K/A SCOTTISH RITE CHILDREN'S MEDICAL CENTER, INC. v. WILLIAM USSERY FOR THE ESTATE OF ELLA M. USSERY, ET AL.**
- A06A0122. JAMES HERBERT JOSE, ET AL. v. WILLIAM USSERY FOR THE ESTATE OF ELLA M. USSERY, ET AL.**

These three related appeals were docketed in this Court on September 2, 2005. On September 21, 2005, the appellant in A06A0120, William Ussery, filed a Motion to Remand the appeal to the trial court for clarification and completion of the preparation of the records. On the same date, the Court received a similar motion from the appellant in A06A0121, Children's Healthcare of Atlanta, Inc.

Upon review of the records in consideration of these motions, the Court finds that the records in these appeals are arranged in an incomplete and confusing manner. The records as presented to this Court will make it virtually impossible for counsel to adequately brief these cases, and most difficult, if not impossible, for the Court to do the work necessary in reviewing the records to address the issues which may be raised in these appeals.

THEREFORE, it is hereby ordered that the clerk of this Court return to the clerk of the State Court of Fulton County the records submitted in the above appeals. The clerk of the State Court of Fulton County is hereby directed to prepare records that are completed and properly indexed. Additionally, the clerk is directed to meet with all counsel in these appeals to verify that the records have been properly assembled and indexed, and that any materials sealed by order of the trial court are properly sealed before delivery to this Court, and that this Court is apprised of the portions of the records which are sealed by order of the trial court.

When the records have been properly reconstituted, the clerk of the trial court is directed to certify the records and retransmit them to the clerk of this Court for docketing. At that time, the clerk at this Court is directed to send out new Docketing Notices.

The Motions for Extension of Time to File Brief, the Motion to Seal Records and the Requests to Argue are hereby dismissed as MOOT.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2005

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

William Z. Martini

Court of Appeals of the State of Georgia

ATLANTA, January 8, 2007

The Court of Appeals hereby passes the following order:

A07A0387. NIMROD LOUIS v. THE STATE.

Nimrod Louis appeals from the denial of his “motion to vacate and correct void judgment of sentence.” Louis has filed a motion to remand while he seeks to complete the record with a trial transcript, citing OCGA § 5-6-43 (d), stating that the trial transcript was filed in connection with his direct appeal, see *Louis v. State*, 230 Ga. App. 897 (497 SE2d 824) (1998), and pointing to his request to proceed in forma pauperis. We GRANT appellant’s motion to remand, and we hereby REMOVE this case from the appellate docket. See *Schlau v. State*, 261 Ga. App. 303, 304-305 (2) (582 SE2d 243) (2003); *Mapp v. State*, 199 Ga. App. 47, 48 (403 SE2d 833) (1991) (determination of indigency is within trial court’s discretion). Upon the completion of the record, Louis may refile his notice of appeal, and the clerk of the trial court shall transmit the case back to this court for appellate redocketing. See generally *Galardi v. Steele-Inman*, 259 Ga. App. 249, 250 (576 SE2d 555) (2003).

Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta **JAN -8 2007**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Will. Z. Mart, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JANUARY 12, 2006

The Court of Appeals hereby passes the following order:

A06A0441. LEE ARTHUR GREEN V. THE STATE

The above appeal was docketed with this Court on October 19, 2005. The Court has granted two extensions of time to file Appellant's Brief and Enumeration of Errors and on January 4, 2006, appellant filed a third request for extension of time stating he is unable to file a Brief because he is awaiting Court transcripts on the Appellant's Motion for New Trial.

The Constitution of this State requires the appellate courts to dispose of every case within two terms. The Georgia Constitution of 1983, Art. VI, Sect. XI, Para. II. This Court does not have the luxury of granting indefinite extensions of time to file briefs.

Upon consideration of the third Motion for Extension of Time to File Brief, the same is hereby DENIED. It is hereby ordered that this case be REMANDED to the trial court for the completion of the record and transcripts.

When the court reporter files the certified transcripts in question with the clerk at the trial court, the clerk at the trial court is directed to return the completed record to the clerk's office of this Court for re-docketing.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 12 2006

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. Z. Mat. [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A06A1889. YOUNG v. THE STATE.

Elaine Young was found guilty in the City Court of Atlanta of driving without a license and obstruction of an officer. See OCGA §§ 40-5-20; 16-10-24 (a).«V1. 8» She was sentenced to pay \$700 in fines and to serve one year in confinement. The sentencing order provided that Young would serve the sentence on probation and that the probationary period would end upon payment of the fines. The order also provided, however, that if Young violated any conditions of probation, the probation could be revoked and the sentence of confinement executed.«V1. 8»

Young filed a timely notice of appeal through her appointed counsel from the city court's public defender office.«V1. 1» Counsel subsequently withdrew after her employment with the office terminated, and substitute counsel from the same office was appointed. Young's new attorney sought an extension of time to file an appellate brief. The attorney stated that Young had a claim for ineffective assistance of counsel and would need a new lawyer ("conflict counsel"), not employed by the city court's public defender office, to handle the appeal. We granted a 30-day extension for the filing of the appellate brief. Counsel later sought a second extension, claiming that conflict counsel still had not been found. We denied the second request.

Young now asks us to remand the case to the city court for the purpose of appointing conflict counsel. The United States Supreme Court has held that indigent defendants who receive probated sentences are entitled to appointed counsel under the

Sixth Amendment, even though incarceration is not inevitable.¹ The determination of indigency and the appointment of appellate counsel are matters within the discretion of the trial court.² Accordingly, we hereby REMOVE this case from the appellate docket and REMAND it to the trial court for a determination of whether the circumstances warrant the appointment of conflict counsel. If conflict counsel is appointed, the defendant shall have 30 days from the date of the appointment to refile her notice of appeal. Upon the refiling of the notice of appeal, the case may be transmitted back to this court for appellate redocketing.³

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

. Clerk.

¹ *Alabama v. Shelton*, 535 U. S. 654 (122 SC 1764, 152 LE2d 888) (2002); see also *Barnes v. State*, 275 Ga. 499, 501 (2) (570 SE2d 277) (2002).

² See *Schlau v. State*, 261 Ga. App. 303, 304-305 (2) (582 SE2d 243) (2003); *Mapp v. State*, 199 Ga. App. 47, 48 (403 SE2d 833) (1991).

³ See *Galardi v. Steele-Inman*, 259 Ga. App. 249, 250 (576 SE2d 555) (2003).



Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes
From: Judge Herbert Phipps 
Subject: July 17 Banc Meeting
Date: July 16, 2007

I regret that an emergency in Albany prevents me from attending the banc meeting on July 17.

John Ruggeri will make a report updating the Court on the status of E-filing. He will also provide a handout to the judges on E-filing. John and I have discussed his report and I have reviewed the handout.

I have reviewed the proposed Court Rules and favor their adoption. I am in favor of adoption of Mr. Martin's proposals regarding penalties for frivolous appeals or contempt, the \$30 charge to attorneys for a personal appearance, and a return to the Court's policy of having the judgment line recite disqualification, recusal or nonparticipation in a particular case.

These are my votes on the above matters if absentee voting is permitted.

pc: All Judges

Clerk of Court Bill Martin

From: <cmccant@atlanta.k12.ga.us>
To: <clerk@gaappeals.us>
Date: 11/2/2008 1:28 PM
Subject: Clerk Feedback Form

E-MAIL SENT FROM THE CLERK FEEDBACK FORM

Sender's Name: Charles McCant

Sender's E-Mail: cmccant@atlanta.k12.ga.us

Message: I teach a high school law class at Benjamin E. Mays High School in Atlanta, Georgia. I need some materials for my law class.

Please ask Judge Phipps to send me Titles 15-17 law books for my class. Judge Phipps knows me. We talked several weeks back. He asked me to contact him if I need something for my school.

I really need class sets of the above named Titles of OCGA. I also need something on Civil Law in Georgia.

I can be reached at 404-802-5100.

Please rush.

Thank you.



Court of Appeals

Memorandum

To: Judge Phipps

From: Rachel Derrico (Central Staff)

Subject: Pro Se Appeals in Dispossessory Cases

Date: October 21, 2009

In recent months, Central Staff has seen a significant increase in the number of appeals in dispossessory cases. Often, these appeals involve an order granting a writ of possession after a property has been foreclosed upon. Almost always, the appellant is proceeding pro se. And frequently, the record contains only the petition for writ of possession, possibly an answer, the order granting the writ of possession and a notice of appeal. Although the appeal technically passes jurisdictional review, these orders are virtually non-reviewable, given the paucity of the record.

Central Staff has discussed ways in which we might expedite the handling of these skeletal appeals. We propose that, after conducting the jurisdictional review, we send the record directly to chambers along with our jurisdictional review sheet, flagging the case as one meriting summary disposition. Otherwise, the record is returned to the file room pending

resolution, which may take months.

Court of Appeals Employee Handbook

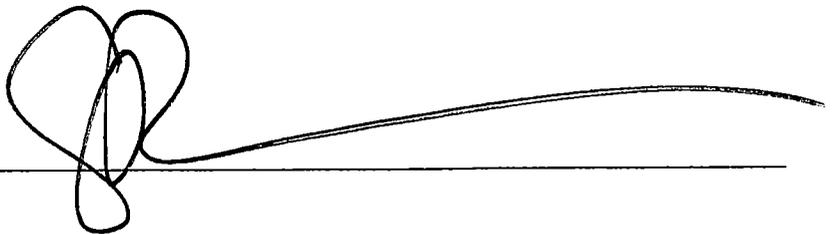
Acknowledgment Form

COPY

I SARA B. ODEA do by my signature below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 17th day of July 2009



Court of Appeals Employee Handbook

Acknowledgment Form

COPY

I Amy K. Doyle do by my signature

below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 7th day of December 2009

Amy K. Doyle

Court of Appeals Employee Handbook

Acknowledgment Form

I Julie Felton III do by my signature

below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 16th day of July 2009

Julie Felton III

Court of Appeals Employee Handbook

Acknowledgment Form

COPY

I Valeri McBride do by my signature

below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 20 day of October 2009

Valeri McBride

Court of Appeals Employee Handbook

COPY

Acknowledgment Form

I Julie Liberman do by my signature below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 2 day of October 2009

Julie Liberman

Court of Appeals Employee Handbook
Acknowledgment Form

COPY

I KRISTEN INDERMARK do by my signature below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 5th day of October 2009

Kristen Indermark

Court of Appeals Employee Handbook

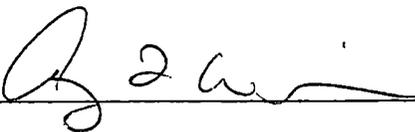
Acknowledgment Form

COPY

I Amy Weisbecker do by my signature below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 14th day of December 2009



Court of Appeals Employee Handbook

Acknowledgment Form

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I Deborah Zimmerman do by my signature below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 14th day of December 2009

Deborah Zimmerman

From: John Ruggeri
To: Holly Sparrow
CC: Bill Martin
Date: 4/8/2010 2:48 PM
Subject: Re: E-Fast Questions

I just talked to Judge Phipps about Monday's meeting. He is having Debbie write up the list of questions and sending them to Bill and me. I assume by paper memo. I will not spell them out here, because I do not remember them in detail. But they do not appear to be serious and not all together anything to do with efast. They have to do with that crazy MFR and Judge Phipps got, the selling of briefs to West and Lexis and about Acknowledging briefs in efast and I think about a tickler e-mail report for the chambers when a motion has not been answered after 15 days. That would incur a charge from Trivir at this time.

So you all will probably see them before I do. Well I am going back to my days off. I guess I just saved myself 2 hours of annual leave over this mess today.

Have a nice weekend. I will be out of cell and computer starting tomorrow afternoon. Call me if you need anything before hand ;-)
-JR

>>> Holly Sparrow 04/08/10 2:35 PM >>>

There have not been any motions filed in any of your cases. The only ones have been in cases assigned to Judge Andrew's office and Judge Bernes.

There are a number of ways you can find out a motion have been filed. John has created a daily report of transactions for each chambers. Any of your staff can also look to see if there is anything pending in your chambers list by accessing the chambers EFAST application.

Also, since this is new to everyone, for the few motions (and requests to argue) received so far (4), the clerk's office has notified the affected judge's office. We plan to do this for a while until everyone becomes used to the system and the number of motions and requests to argue increase.

There is no change in when a court action is due in EFAST and with paper documents.

>>> Yvette Miller 4/8/2010 2:10 PM >>>

Have there been any motions filed in any of my cases yet? When is the Court action due? Please advise. Do we have a mechanism in place to Alert the judge and her staff?

From: Debbie Zimmerman
To: Bill Martin; John Ruggeri; Yvette Miller
CC: Herbert Phipps
Date: 4/8/2010 4:15 PM
Subject: Meeting April 12 @ 2:30 p.m. in Chief Judge Miller's Chambers

The following is an agenda for our discussion next Monday afternoon.

--Judge Phipps

Agenda for April 12 Meeting

1. E-filing concerns (especially MFR's with respect to the motion filed in A09A2140 and its attachment)
2. Issue of action items being separated from non-action items in E-Fast; separate posting needed so that chambers staff is alerted to those things requiring action. Tickler system possible for action items?
3. Lexis publishing our briefs now prior to publication of opinions. Is this only briefs? What about motions (such as the MFR in A09A2140, e.g.)?

Court of Appeals Employee Handbook

Acknowledgment Form

COPY

I Rachel Derric do by my signature

below state and affirm that I have read a copy of the Court of Appeals Employee Handbook, and I understand my rights and obligations thereunder.

I further understand that my failure to comply with the requirements of the handbook and abide by the rules and policies of the Court of Appeals of Georgia set out therein may subject me to discipline, up to and including, dismissal.

This the 7 day of Dec 2009

Rachel Derric



Court of Appeals

Memorandum

To: Jan Kelley
From: Judge Phipps *HP*
Subject: Personnel Action for Glenna Stone
Date: February 18, 2010

I have hired retiree Glenna Stone to work in my chambers as a staff attorney beginning Monday, February 22, 2010. Glenna will job-share with Amy Weisbecker in the position formerly held by Julie Liberman. Glenna will come in at Step 2 of the court's payscale. Glenna's assignment will be temporary while permanent arrangements are being made.

cc: Bill Martin



Court of Appeals

Memorandum

To: William L. Martin, III
From: Judge Herbert E. Phipps *HEP*
Subject: Disqualifications
Date: August 9, 1999

In addition to the list of financial institutions previously provided, please do not assign to me cases involving the following entities:

Washington Mutual Investors Fund

AIM Value Fund - Class B

ML Lee Acquisition Retirement Fund II LP 89

Thank you.



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

ORDERED: That the Honorable Herbert Edward Phipps of Dougherty County, Georgia, be and he is hereby appointed as Judge of the Court of Appeals to serve a term of office beginning this date and ending December 31, 2000.

This 12th day of July, 1999.

ATTEST

EXECUTIVE SECRETARY

GOVERNOR

OATH OF JUDGE OF THE COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA)
COUNTY OF FULTON)

I, ... HERBERT E. PHIPPS (name)

a citizen of ... DOUGHERTY COUNTY

and being an employee of ... THE STATE OF GEORGIA
and the recipient of public funds for services rendered as such employee, do hereby solemnly swear and affirm
that I will support the Constitution of the United States and the Constitution of Georgia.

I do further swear that I will discharge all the duties lawfully required of me as Judge of the
Court of Appeals of Georgia, according to the best of my ability and understanding.

I do further swear and affirm that I am not the holder of any unaccounted for public money
due this State;*that I am not the holder of any office of trust under the government of the
United States, nor of either of the several states, nor of any foreign state; and that I am other-
wise qualified to hold said office, according to the Constitution and Laws of Georgia; and
that I will support the Constitutions of the United States and of this State.

I do further swear that I will administer justice without respect to person, and do equal rights
to the poor and the rich, and that I will faithfully and impartially discharge and perform all
of the duties incumbent on me as Judge of the Court of Appeals of Georgia, according to the
best of my ability and understanding, and agreeably to the Laws and Constitution of this
State and the Constitution of the United States.

SO HELP ME GOD!

Handwritten signature of Herbert E. Phipps over a dotted line labeled 'Signature.'

Sworn to and subscribed before me

this 12th day of JULY, 1999

Handwritten signature of the official administering the oath over a dotted line.

(O.C.G.A. 15-3-5)
(O.C.G.A. 45-3-1)
(O.C.G.A. 45-3-12)

* or any political subdivision or authority thereof



STATE OF GEORGIA
OFFICE OF THE GOVERNOR
ATLANTA 30334-0900

Roy E. Barnes
GOVERNOR

FOR IMMEDIATE RELEASE
June 29, 1999

CONTACT: Joselyn Butler
404/651-7774

BARNES ANNOUNCES SEVEN APPOINTMENTS

Governor Roy Barnes today announced appointments to the Georgia Court of Appeals, Department of Defense, Office of Highway Safety, and Ports Authority Board.

The three new members of the Court of Appeals are Treutlen County State Court Judge John J. Ellington (38), Fulton County State Court Judge M. Yvette Miller (43) and Dougherty Judicial Circuit Superior Court Judge Herbert E. Phipps (58). They fill two new seats on the Court created by legislation enacted this year and one vacancy created by the resignation of Judge Dorothy Beasley.

Brigadier General and former Labor Commissioner David Poythress (55) will be the Adjutant General of the Georgia Department of Defense, and Stephen Draper (57) will be the Governor's Chief of Aides-de-Camp, Military Policy Advisor and Liaison to the State and Federal Military Communities.

Department of Juvenile Justice Office of Prevention and Intervention Director Yvonne McBride (46) will be Director of the Governor's Office of Highway Safety, replacing Timothy E. Jones, who has been nominated by the President to be a member of the United States Parole Commission.

Okefenokee Area Development Authority Executive Director Richard C. "Stock" Coleman (51) has been appointed to the Board of the Georgia Ports Authority to fill the vacancy created by the resignation of Steve Wrigley.



*Swearing-In Ceremony
Georgia Court of Appeals*

July 12, 1999

2:30 p.m.

Auditorium of the Capitol Education Center

- | | |
|---|---|
| <i>* Call to Order</i> | <i>Governor Roy E. Barnes</i> |
| <i>* Recognition of Parties Present</i> | <i>Governor Roy E. Barnes</i> |
| <i>* Introductory Remarks</i> | <i>Governor Roy E. Barnes</i> |
| <i>* Invocation</i> | <i>Rev. Edward F. Reynolds,
Pastor, Mid-Way Missionary
Baptist Church</i> |
| <i>* Determination of Order</i> | <i>Governor Roy E. Barnes</i> |

Presentation of Judges

Judge John J. Ellington Judge W. Yvette Miller Judge Herbert E. Phillips

Presented by:

*The Honorable
William M. Towson
Chief Judge, Dublin
Circuit*

*Chief Justice
Robert Benham
Supreme Court
of Georgia*

*Walter M. Deriso, Jr.
President
Synovus Financial Corp.*

- Photographs*
- Adjournment*

Court of Appeals Judgeships Go to Ellington, Miller, Phipps

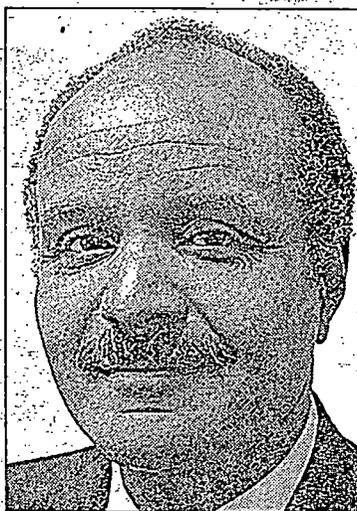


Fulton State Court Judge M. Yvette Miller says she's "totally thrilled" at her selection for the appellate position.

TRISHA RENAUD
Senior Reporter

In his first judicial appointments, Gov. Roy E. Barnes followed traditional wisdom.

Barnes announced Tuesday the appointment of three trial court judges to the Georgia Court of Appeals: Fulton State



Herbert E. Phipps, a Dougherty Superior Court judge, was a finalist for a Court of Appeals appointment in 1994.

Court Judge M. Yvette Miller, Dougherty Superior Court Judge Herbert E. Phipps and State Court Judge John J. Ellington of the Dublin Judicial Circuit.

The appointments fill one vacancy created by the resignation of Presiding Judge Dorothy T. Beasley and two new seats cre-



Dublin Circuit State Court Judge John J. Ellington, also a judge in six municipal courts, says he's presided in "every court there is."

ated by legislation earlier this year.

While court-watchers had speculated the new governor might break with the practice of his predecessor to promote from the bench, Barnes bypassed litigators and politicians such as him-

See APPEALS, Page 3

Three Sitting Judges Tapped for Appeals Posts

APPEALS, from Page 1

self and chose three sitting jurists.

His selections did, however, follow former Gov. Zell Miller's policy of appointing blacks and women. Miller and Phipps are black. Their addition will give the 12-member appellate court three black and two female judges.

It also will bring greater geographic diversity to the court. Phipps comes from Albany, Ellington from Soperton and while Miller sits on the bench in Fulton, she is originally from Macon and has practiced law in South Georgia.

Ellington says the geographic diversity of the appointments signals Barnes' "concern about us as one people and one Georgia."

The three new appointees were chosen from a list of 15 given the governor by the Judicial Nominating Commission. The commission, headed by George "Buddy" Darden, compiled the short list after interviewing 58 hopefuls.

Miller, 44, received her law degree

in 1980 from Mercer University's Walter F. George School of Law and a master's degree in litigation from Emory University School of Law in 1988.

A former Fulton assistant district attorney, she was named an administrative law judge for the State Board of Workers' Compensation in 1989. In 1992 Miller was tapped to be a director and appellate judge on the three-member State Board of Workers' Compensation, the first black and first woman to hold that position.

She had been a finalist for Fulton Superior Court slots in 1992, 1994, 1995 and 1996, when she was chosen for State Court. She says she's "totally thrilled" to be picked for the Court of Appeals.

She says she believes she will bring to the court "a very good working knowledge of most areas a Court of Appeals judge will be confronted with."

She already has experience making decisions as part of a panel from her time as an appellate judge on the State Board of Workers' Compensation. That,

Miller says, "will enable me to hit the ground running."

Phipps received his undergraduate degree from Morehouse College and his law degree from Case Western Reserve University Law School in 1971.

He served as a magistrate and associate judge on Dougherty State Court until he became a Dougherty Juvenile Court judge in 1988. He joined the Dougherty Superior Court bench in 1995.

Phipps also knows a bit about the judicial selection process, having served on the Judicial Nominating Commission himself from 1986 to 1991. He is a former member of the Board of Governors of the State Bar of Georgia and a past president of the Dougherty Circuit Bar Association.

Phipps was a finalist for a Court of Appeals slot in 1994 but then Gov. Miller appointed Augusta Superior Court Judge John H. Ruffin Jr. instead.

He could not be reached for this story.

Ellington, 38, is a native of Vidalia but was raised in Soperton. He graduated from Abraham Baldwin Agricultural College, then graduated with honors in accounting from the University of Georgia in 1982 and received his law degree from the University of Georgia School of Law in 1985.

He went into private practice with the firm of Andrew, Threlkeld & Ellington until 1991, when he went on the State Court bench in Treutlen County, a part-time position.

Ellington, a personal friend of Barnes, also contributed to the governor's 1998 election campaign.

He says the appellate court will be a challenge, but not an overwhelming one. He points to his experience on the bench, which is much broader than his official title as a State Court judge in the Dublin Circuit would indicate.

He has sat as a Superior Court judge in 27 counties; as a juvenile court judge

and as a magistrate, and he currently is a municipal judge in six cities. In sum, says Ellington, he has presided in "every court there is."

The other finalists for the appellate slots were: Cobb State Court Chief



JOHN DISNEY/DAILY REPORT

George "Buddy" Darden heads the Judicial Nominating Commission that trimmed a roster of 58 hopefuls to a short list of 15 names for the governor.

Judge A. Harris Adams; Fort Valley litigator Charles R. Adams III; Athens litigator John J. Barrow; outgoing State Bar of Georgia President William E. Cannon Jr.; DeKalb Superior Court Chief Judge Robert J. Castellani; Henry County attorney Wade M. Crumbley; Chatham Superior Court Judge Charles B. Mikell Jr.; Fulton Superior Court Chief Judge Thelma Wyatt Cummings Moore; former state Sen. Mary Margaret Oliver; corporate litigator W. Rhett Tanner; former state House Judiciary Committee Chairman Charles A. Thomas Jr., and DeKalb Superior Court Judge Anne Workman. □

Trisha Renaud's e-mail address is trenaud@amlaw.com.



Gov. Roy E. Barnes' first judicial appointments followed his predecessor's example of appointing blacks and women to the bench.

Lola Diamond - June 11 Commitment to Equality Awards

From: Sara Doyle
To: Court of Appeals
Date: 4/22/2015 11:31 AM
Subject: June 11 Commitment to Equality Awards
Attachments: Commitment-to-Equality-Save-the-Date.png

FYI- and please note that our own Chief Judge Phipps will be receiving the lifetime achievement award!

SAVE THE DATE
2015
COMMITMENT TO EQUALITY AWARDS

PRESENTED BY
THE COMMITTEE TO PROMOTE INCLUSION IN THE PROFESSION
OF THE STATE BAR OF GEORGIA

Honorees:

Hon. Herbert E. Phipps

CHIEF JUDGE, GEORGIA COURT OF APPEALS
RANDOLPH THROWER LIFETIME ACHIEVEMENT AWARD

Thomas G. Sampson

MANAGING PARTNER, THOMAS KENNEDY SAMPSON & TOMPKINS, LLP
RANDOLPH THROWER LIFETIME ACHIEVEMENT AWARD

Lynn M. Roberson

PARTNER, SWIFT CURRIE MCGHEE & HEIRS, LLP
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June 11, 2015 | 6:30 PM - 8:30 PM



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June 11, 2015 | 6:30 PM - 8:30 PM

Best wishes to you for a successful tenure in your position.

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It is furnished as a service to you and I hope it will be of value.*

**CATHY COX
SECRETARY OF STATE**

STATE OF GEORGIA

**Cathy Cox
Secretary of State**

Documents have been filed with this office certifying that

**HERBERT E PHIPPS
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ATLANTA GA 30334**

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JUDGE OF THE COURT OF APPEALS

Term
JAN. 1, 2007 - DEC. 31, 2012

Cathy Cox
Secretary of State

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Elections Division
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**HERBERT E PHIPPS
JUDGE OF THE COURT OF APPEALS
DOUGHERTY COUNTY
334 STATE JUDICIAL BUILDING
ATLANTA GA 30334**





Court of Appeals

Memorandum

To: Judge Herbert Phipps

From: Chief Judge Barnes *ARMB*

Subject: Your Memorandum of February 21, 2008: A08D0221, A08D0222, A08D0227, and A08D0232

Date: February 26, 2008

I am having my staff research this issue for central staff. Let me know your thoughts on this issue.

~~cc: William L. Martin, III~~