



JUDICIAL COUNCIL OF GEORGIA
Administrative Office of the Courts
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May 27, 1994

MEMORANDUM

TO: Chief Justice Hunt

FROM: Robert L. Doss, Jr. *RLD*
Director

RE: Appellate Division of the Superior Court,
State of New Jersey

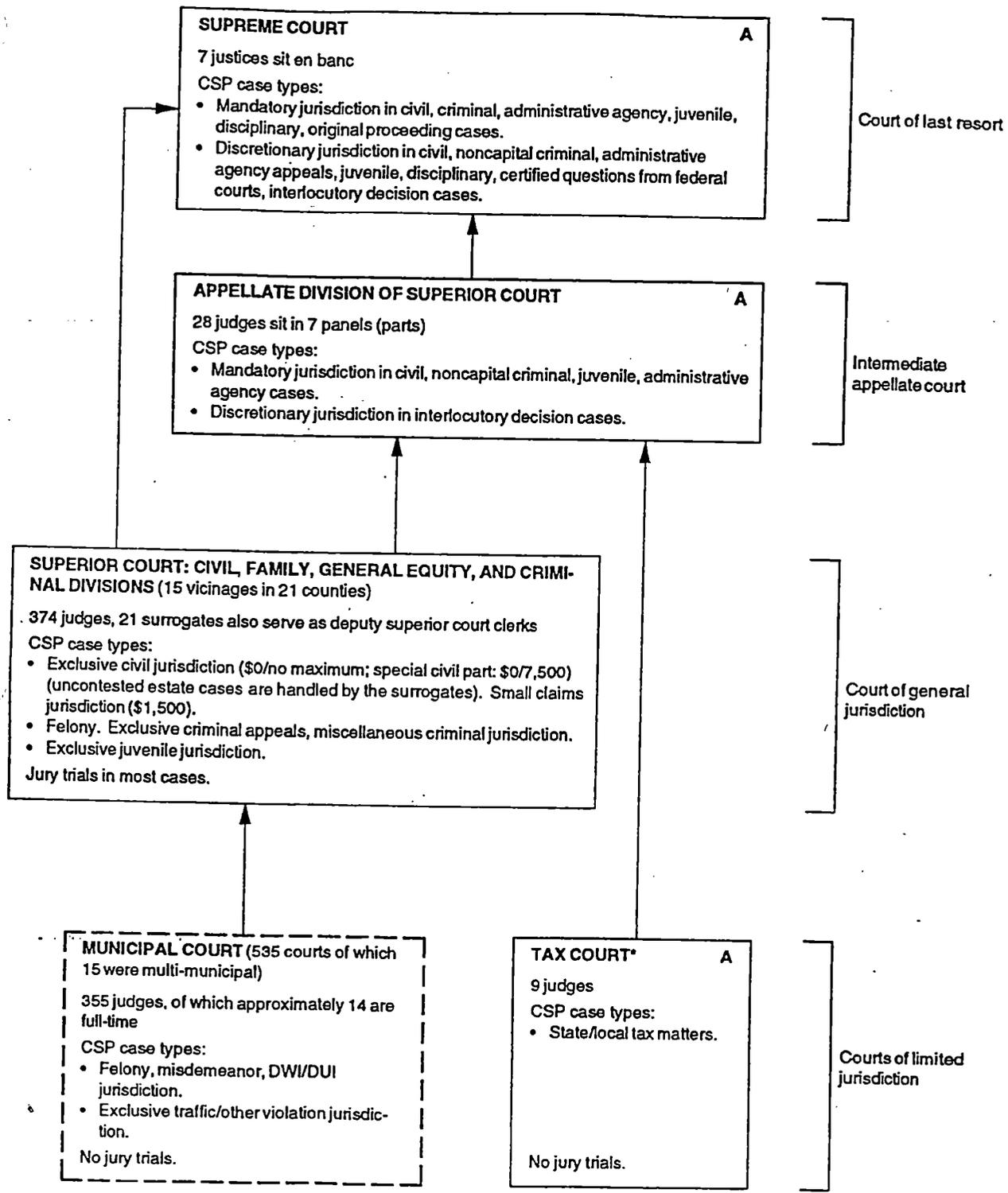
Chief, I am enclosing an organizational diagram of the New Jersey court structure. I did not realize that they do not have a court of appeals other than the appellate division of the superior court.

I am also enclosing a research paper done by Holly Sparrow on the operation of the appellate division of the superior court in New Jersey. If you would like us to go further or provide additional information, please let me know.

RLD/tec

Enclosure

NEW JERSEY COURT STRUCTURE, 1992



* Tax court is considered a limited jurisdiction court because of its specialized subject matter. Nevertheless, it receives appeals from administrative bodies and its cases are appealed to the intermediate appellate court. Tax court judges have the same general qualifications and terms of service as superior court judges and can be cross assigned.



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M E M O R A N D U M

TO: Robert L. Doss, Jr.
FROM: Holly Sparrow *HS*
RE: New Jersey
Appellate Division of the Superior Court
DATE: May 10, 1994

You have asked me to collect certain information on how the Appellate Division of the Superior Court of New Jersey is organized and operates. This information was collected from the New Jersey statutes, 1989 and 1991 New Jersey annual reports, the NCSC State Court Caseload Statistics: Annual Report 1992, and an extensive telephone interview with Mr. Jack Trubenbach, General Counsel for the Appellate Division of the New Jersey Superior Court (Telephone: 609-984-4216).

First, as you are probably aware, the State of New Jersey does not have a separate intermediate court of appeals but instead handles appeals from the Superior Court and state administrative agencies through a division of the Superior Court. The Superior Court has four other divisions which are Civil, Family, General Equity and Criminal.

It is important to understand the jurisdiction of both the Appellate Division and Supreme Court before evaluating the New Jersey system. There are restrictive rules for appeal by right to the Supreme Court. Appeals by right are limited to three groups of actions:

1. Those in which there is a dissent in the Appellate Division;
2. Ones in which a substantial constitutional issue exists which was not previously addressed by an appellate court in New Jersey; and
3. Those in which a death sentence for a capital murder has been imposed.

Otherwise, parties must seek Supreme Court review by petitioning for certification. Certification is granted only if:

1. The case involves a matter of general public importance that should be, but has not been settled by the Court;
2. The question is similar to one already on appeal;
3. A lower court's decision conflicts with another appellate decision or calls for the exercise of the general supervisory powers of the Court; or
4. Is required in the interest of justice.

It was reported in the New Jersey 1988-89 Annual Report that certification was granted in 11% of the cases. The figures in the NCSC Annual Report for 1992 show that only 4% were granted. Mr. Trubenbach did not know why there was such a difference between the two years.

Rules of the Supreme Court limit appeals based on dissents to issues raised in the dissenting opinion. Most appeals of right claim constitutional grounds. About 116 of 1339 petitions filed in 1990-1991 were granted.

The Supreme Court also considers interlocutory applications. There were 1602 such motions in 1990-91.

As of 1990-91, the Appellate Division of the Superior Court had 28 judges grouped into Parts with four judges each. Now there are 30 judges grouped into 6 Parts of four judges each and 2 Parts of 3 judges each. A request to the Supreme Court to add 2 more judges is now pending.] ✓

Statutes state that the Governor nominates and appoints the Superior Court judges with the advice and consent of the Senate, the Chief Justice and associate justices of the Supreme Court. At the end of a seven year term, the Judge can be reappointed. If reappointed, the judge can serve until retirement at age 70. The Chief Justice assigns judges to the different superior court divisions and after a judge has experience there, that judge may be considered by the Chief Justice for assignment to the Appellate Division. Initially such assignment is temporary for one year. After that year, the assignment, if

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suitable to the judge assigned and the Chief Justice, will become permanent until retirement.

There is a Presiding Judge chosen by the Chief Justice. The 8 most senior judges in service in the Appellate Division serve as Presiding Judges for the 8 Parts. The Presiding Judge's responsibilities are to assign opinions, establish rotation for handling motions, schedule arguments and generally supervise the Part.

The Parts sit in panels of two or three judges. Supreme Court rules establish the premise that cases will ordinarily be handled by two judge panels. Ultimately, the Presiding Judge of a Part decides if the appeal is heard by two or three judges. This determination may be based on case complexity or novelty and a third judge may be added to the panel even after the argument. In 1988-89, 66% of appeals decided by opinion were by two-judge panels and 34% by three.

The judges rotate in the Parts each year. The Parts do not specialize in particular areas of law. The court hears appeals without argument unless a party requests it or the court orders it. In most matters, a written opinion is issued.

The judges chambers are in 10 locations throughout the state usually in private office space not courthouses although one Part has offices in the Justice Complex in Trenton. There are only four courtroom locations; three in local courthouses which the trial divisions use and one at the Justice Complex. The judges composing one of the Parts do not necessarily have office space in the same place. Instead, the panel meets at the courtroom for the case argument. After the argument, the presiding judge assigns the opinion to one of the panel members and a conference may be held. Thereafter, the judges of the panel usually communicate by telephone, electronic mail, fax or messenger service which visits each office 3 times a week.

During 1990-91 there were more than 6600 appeals docketed in this court. 71% were from the Law Division, 15% from administrative agencies, 10% from the Family Division, 3% equity cases and 1% from the Tax Court. An appeal of an interlocutory order to this court requires a motion for leave to appeal.

The Appellate Division differentiates appeals for specialized treatment into six categories: civil appeal settlement, sentencing, summary disposition, pro se, extremely complex, and regular appeals. Ten percent of appeals involve pro se litigants. Staff attorneys and case

managers review pro se documents and if these are deficient, return them with detailed instructions to correct them.

Two special programs are the Civil Appeal Settlement Program and the Sentence Program.

First, the Civil Appeals Settlement Program was established in 1981. In 1990-91, it disposed of 484 cases. There were four judges, but only two were available in 1990-91. Now, five retired Appellate Division judges serve in this program. Court rules determine the list of cases excluded from this process such as pro se actions and accelerated cases which include adoptions, terminations of parental rights, and commitments. Cases are sent to one of the five judges to determine if it should be selected for this process. Of those selected, about 35 to 40% have settled either before, during or shortly after the conclusion of the settlement conference. In Georgia, our similar program settled 29 cases in fiscal year 1993.

Secondly, an Excessive Sentence Program was created in 1982. It originally addressed appeals in which the sole issue was the excessiveness of the sentence imposed, but now addresses other sentencing issues such as illegal or too lenient sentences. There are fifteen categories of sentence issues set out in court rules that this program addresses. These appeals are argued without briefs and, therefore, are sound recorded. Instead of a full opinion, an order is usually drafted and signed shortly after argument. Two judge panels from the Appellate Division handle these cases on special calendars. One of these calendars is set about every six weeks. In 1988-89, 816 appeals were terminated in this program.

Another interesting aspect of the Appellate Division is the administrative staff, which within the clerk's office, is divided into five case processing teams. Additionally, there is an Office of the Administrator, an Office of Reporting Services and a Central Appellate Research Staff at the Justice Center Complex. In addition, each judge has a personal staff of a secretary and a law clerk at the chamber location; presiding judges have two law clerks.

New Jersey is different from Georgia in many respects. First there are only 21 counties. The court system is much more unified. Besides the Supreme Court and Superior Court, there are only two classes of courts, Municipal Courts and Tax Court. The total filings in the New Jersey Superior Court were 1,184,966 in 1992 while those in the Georgia Superior Courts numbered only 306,931.

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The number of appeals filed in the Appellate Division of the New Jersey Superior Court was 6871; for the Georgia Court of Appeals there was 3412. That works out to 245 cases per judge in New Jersey with 379 per judge in Georgia. 3623 cases were disposed by opinions in the Appellate Division while there were 2065 in the Georgia Court of Appeals. The Georgia Court of Appeals disposition rate was 102% as compared to the Appellate Div. N.J. which was 94%.

The number of appeals filed in the N.J. Supreme Court was 3288 with 78 cases with written opinions. In Georgia's Supreme Court the filings numbered 1784 with opinions disposing of 350. The Georgia Supreme Court had 706 mandatory appeals, while N.J. had only 407. The Georgia court granted 8% of the discretionary appeals while New Jersey granted only 4%.

The population of New Jersey is substantially larger than Georgia with 7,789,000 persons while Georgia had 6,751,000 estimated for 1992.

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