



# Amicus

A newsletter for employees of the  
Supreme Court of  
Appeals of West Virginia  
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## Truancy meetings wrap up

Supreme Court Justice Robin Jean Davis and Nineteenth Circuit Judge Alan Moats gave a presentation about judicial programs on truancy to the Joint Standing Committees on Education and the Judiciary on December 13 in the House of Delegates Chamber, the final presentation in their fall tour of the state to talk about judicial truancy programs.

They appeared at fourteen regional meetings to discuss ways the court system can work with educators, the Department of Health and Human Resources, and other community officials to keep children in school. Justice Davis also attended a community meeting in Princeton in November to sign an order allowing the Mercer County Board of Education to fund a probation officer to work solely on truancy cases.

The Supreme Court Division of Children's Services is in charge of follow-up from the regional meetings. Director Nikki Tennis can be contacted at 304-340-2304 or

## Access to Justice forums completed

The West Virginia Access to Justice Commission held the last of six public forums to discuss access to justice barriers in West Virginia on November 15 in the Supreme Court Chamber in Charleston.

Previous forums were held in Beckley, Martinsburg, Huntington, Wheeling, and Morgantown. Information from the hearings will be used to conduct a needs assessment on civil legal representation in the state.

At each meeting, the hearing panel consisted of West Virginia Access to Justice Commissioners. Local legislators, judges, city and county representatives, and the public were invited to attend.

The Supreme Court established the Access to Justice Commission on January 29, 2009, by Administrative Order. The purpose of the commission is to assist West Virginians to overcome barriers within the civil legal system. For more information, contact Deborah Bogan at 304-558-6831 or [deborah.bogan@courtswv.gov](mailto:deborah.bogan@courtswv.gov)

## Justice Ketchum to be Chief Justice in 2012



Justice Menis E. Ketchum will be Chief Justice in 2012, the Supreme Court decided in its last Administrative Conference of 2011, held on November 23. Justice Ketchum will become Chief Justice on January 1. Justice Thomas E. McHugh will assume the duties of Chief Justice in cases in which Chief Justice Ketchum is recused.

Justice Ketchum was elected to a full twelve-year term on November 4, 2008. Chief Justice Ketchum was born in 1943 in Huntington, and was raised in Wayne County. He was educated in Wayne County public schools before attending Ohio University in Athens, Ohio, where he played varsity baseball and was a member of the 1964 Mid-American Conference Championship Baseball Team. Chief Justice Ketchum returned to West Virginia to attend West Virginia University College of Law.

While in law school he was a contributing writer and associate editor of the *West Virginia Law Review*. He received his law degree in 1967 and returned to Huntington to join his father, Chad W. Ketchum (1911-1998), in the practice of law with the firm of Greene, Ketchum & Baker. He practiced at that firm and its successors, eventually becoming the senior partner, until his election to the Court. Chief Justice Ketchum's law practice included insurance defense, personal injury, and criminal defense.

He was recognized continuously from 1989 to 2008 in The Best Lawyers in America and was a member of the Leading Honoraries, the American College of Trial Lawyers, and the American Board of Trial Advocates. Throughout his legal career he published legal articles and presented numerous continuing legal education seminars. Chief Justice Ketchum also served as a member of the Board of Governors of Marshall University from 2002 until his campaign for the Court, and served as Chairman or Vice-Chairman of the Board from 2003 until 2008. At the time of his election to the Court, he served on the Boards of the Public Defender Corporations for the Sixth and Twenty-Fourth Judicial Circuits. He previously served on the Huntington Urban Renewal Authority, participated in the statewide Vision Shared Health Care Team, and the Governor's Mine Safety Task Force.

Chief Justice Ketchum has been married to the former Judy Varnum since 1966. They have three children – Kelli Morgan, Bert Ketchum, and Chad Ketchum – and six grandchildren.

## Judge Hatcher goes to Washington

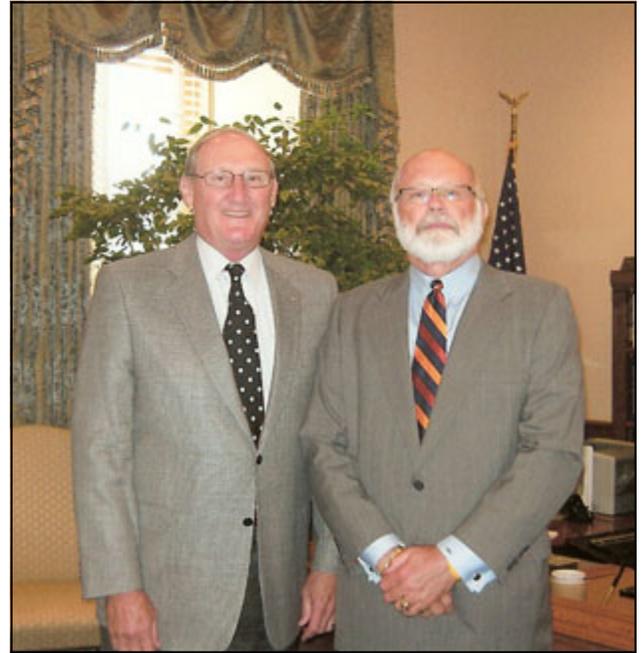
While in the Washington, D.C., area recently to attend an Army Judge Advocate General Corps Vietnam Reunion, Twelfth Judicial Circuit Judge John W. Hatcher, Jr., visited a friend, William K. Suter, Clerk of the U.S. Supreme Court.

Judge Hatcher served four years as a Captain in the Army Judge Advocate General's Corps. Of that service, one year was in the First Cavalry Division (AirMobile).

Supreme Court Clerk Suter, also a Vietnam Veteran, retired from the Army Judge Advocate General's Corps as a Major General. The next day he was sworn in as Clerk of the U.S. Supreme Court. He has served as Clerk, with great distinction, for nearly twenty-one years. General Suter, as he is referred to around the Court, invited Judge Hatcher to the Court for a private tour. Judge Hatcher said the he and his wife, Alice, enjoyed the tour immensely and that General Suter, with his vast knowledge of the history of the Court, was a superior tour guide. The Court's Library is a magnificent place, and the Justices' private dining room is elegant, suiting the stature of the Justices of the nation's highest court, Judge Hatcher said.

The U.S. Supreme Court building is now celebrating its seventy-fifth anniversary. The building was the brainchild of Chief Justice William Howard Taft, who served on the Court from 1921 until 1930. Chief Justice Taft is the only person to serve both as a U.S. President and as a Justice on the United States Supreme Court.

Cass Gilbert, the architect who designed West Virginia's beautiful Capitol where the state Supreme Court of Appeals is housed, also designed the U.S. Supreme Court building. The two courtrooms are nearly identical, except the U.S. Supreme Court's chamber is necessarily larger. The anniversary display in the Great Hall of the Supreme Court has a photo of, and commentary about, West Virginia's Supreme Court Chamber.



Judge John W. Hatcher, Jr., right, with William K. Suter, Clerk of the U. S. Supreme Court, in Washington, D.C. *Photo provided by*

## Wedding Announcement

After dating for more than thirty-five years, Circuit Judges Hobby Spaulding and Jane Husted finally realized that since they were obviously in love and not likely to break up any time soon, they needed to tie the knot. They were married on Thanksgiving Day at the home of long-time friend, former state Senator Oshel Craig's oldest daughter, Sabrina, in Boston, Massachusetts, with all of the Craig extended family (sixteen in all) in attendance.

Although no one has checked any records, it is likely the first time two sitting circuit judges have been united in marriage.



While the rest of the wedding party was dressed as if for a church ceremony, the bride wore jeans and the groom wore Dockers.

Senator Craig gave the bride away, and his wife, Joanna, was the matron of honor. Sabrina's mother-in-law, Olga, was the best man (or Kuma, in Serbian custom). The only hitch for Olga was that serving as the Kuma is a very serious honor sometimes performed by a godparent, and the Serbian custom is that the Kuma is responsible for raising any children of the union should the bride and groom be unable to do so. After being assured that children were not a potential problem, Olga, (age over 80), gave a grin, a sigh of relief, and happily stood up for Judge Spaulding.

Another Craig daughter, Shannon, performed the ceremony. Sabrina's husband, Jovan, played all of the wedding music. A third Craig daughter, Chris, took photos, and a fourth Craig daughter, Desiree, arranged flowers and provided the requisite something borrowed, something blue.

Six young Craig grandchildren loved the dancing after the wedding, the throwing of the bouquet, and the "princess" throwing out the garter, which then became a much fought-over headpiece by the little girls.

After learning of the plans, Supreme Court Administrative Director Steve Canterbury joked, "I talked to them. I begged them not to rush into anything. They ran off out of state and hitched up. It's always a little troubling if people don't get to know each other before they get married. We hope it works out." Then he added, "Naturally, we wish them both the very best."

The judges said they would like to thank everyone for their expressions of congratulations.

## Justice Benjamin addresses treatment court professionals, Appears on “Decision Makers”

Supreme Court Justice Brent D. Benjamin gave the keynote address to a conference of treatment court professionals on November 14 at the Marriott Charleston Town Center Hotel. The speech, like the conference, concerned alternatives to incarceration for certain first-time, non-violent offenders.

The West Virginia court system continues to add treatment courts throughout the state and to celebrate graduates who complete such specialty court programs. Justice Benjamin attends as many treatment court openings and graduation ceremonies as his schedule allows as the Supreme Court’s representative, an indication of how important the Court believes the programs are.

West Virginia currently has eleven adult drug courts serving twenty-eight counties, ten juvenile drug courts serving twelve counties, one adult reentry court, and one adult mental health court.

Justice Benjamin also appeared on the December 17 broadcast of the West Virginia Media television show “Decision Makers.” He talked about the recent “Judicial Hellholes” report, the Revised Rules of Appellate Procedure, proposals for an intermediate appellate court, and other issues. The show also aired on December 18. Bray Cary, president and CEO of West Virginia Media, was the host. The show airs on WOWK-TV 13 in Charleston-Huntington; WBOY-TV 59 in Clarksburg-Morgantown; WTRF-TV 7 in Wheeling; and WVNS-TV 59 in Beckley-Bluefield.

### ***A Sine Die to die for***

Supreme Court Clerk Rory Perry sang and played guitar with a friend during an all-too-brief performance for Court employees during the *sine die* ceremony at the end of the fall term of court.

The ceremony usually is a time when Justices thank other Justices and Court employees for their work during the term. This time, Chief Justice Margaret Workman asked Clerk Perry to perform, saying she had recently learned he played in a band, “Red Salt,” during his off time. Chief Justice Workman said she did not want to be outdone by Justice Brent Benjamin, who brought Marshall University’s marching band into the Supreme Court Chamber for an opening day ceremony when he was Chief in 2009.

Clerk Perry sang lyrics he and Chief Justice Workman wrote specifically for each Justice to the tunes of popular songs. And then, to her surprise, he sang a piece he had written about Chief Justice Workman. All the Justices seemed to enjoy the gift of song. Their employees certainly did.



Justices Benjamin and McHugh laugh as Clerk Rory Perry and Cameron McKinney play for the Justices. *Photo by Steve Payne*

## Robes to Schools

### **Newest Circuit Judge reads to first-graders**

Students at White Hall Elementary School in White Hall were treated to a special guest reader during Children's Book Week at the school.

Sixteenth Judicial Circuit (Marion County) Judge Michael Aloï read "The Pumpkin Blanket" to first-graders.

According to the [Fairmont] *Times West Virginian*, after Judge Aloï finished the book, he shared a story about a special quilt made for him by his grandmother. He took the blanket with him everywhere, even to law school. It had become so threadbare, his grandmother asked if she could have it back to mend. Judge Aloï hated to part with it, but he did. She took the blanket to fix in April 1982, and that summer she passed away, making the blanket a special treasure.

In addition to Children's Book Week, the school was celebrating Character Week, and that day was Kindness Day. "The Pumpkin Blanket" illustrates kindness the lead character demonstrates to pumpkins.

The first-graders also asked Judge Aloï questions about his work.

White Hall's media teacher, Monica Zanussi, said it's important for children to see professionals taking time away from their busy days to read to them.

"With technology encompassing everything, we're getting away from books. I'm so afraid we're losing the meaning of reading," Ms. Zanussi told the newspaper.

### **Marion County Magistrate visits Fairmont School**

Marion County Magistrate Melissa Linger visited first-grade students at Fairmont Catholic School on December 15 to read "The Coat of Many Colors," by Dolly Parton. Her visit was a surprise to the students.

"Teaching them at an early age to have respect for authoritative figures in their life like parents, grandparents, and teachers, will eventually lead them to have a respect for the law and keep them out of the court system as a criminal defendant," she said. Her visit was a part of the Robes to Schools program created by Justice Robin Jean Davis in 2007.

### **Boone County Schools fund probation officer**

In December, the Administrative Office of the Supreme Court, the Twenty-Fifth Judicial Circuit (Boone and Lincoln Counties), and Boone County Schools signed a memorandum of understanding regarding the employment of a school-based probation officer that will be funded by the Boone County Board of Education.

Mike Lacy, Director of the Division of Probation Services at the Supreme Court, told *The Coal Valley News* that the Boone County program supports the Supreme Court's initiative on reducing truancy rates. For the past several months, Justice Robin Jean Davis has traveled the state talking about truancy and the importance of communities working together to keep children in school.

Boone County is the fourth county in the state to have a school-based probation officer, joining Logan, Wayne, and Mercer Counties. The probation officers focus on attendance and behavioral issues with students.

Twenty-Fifth Judicial Circuit Judge William S. Thompson told the newspaper that many people on his criminal docket are high school dropouts.

"It is a problem that needs to be addressed, and this is another positive way to help students and parents," said Judge Thompson.

## Judicial officers appear in play



Kanawha County  
Magistrate Kim Aaron

Several judicial officers and court employees appeared in "A New Home for Liberty," a play presented October 18, 2011, at the Charleston Civic Center. Written by former Supreme Court Clerk Tom Rodd, the play tells the story of an elderly Granville Hall and an elderly J.R. Clifford meeting with their families in a railway station and exchanging stories. The stories also tell the history of key points in West Virginia history.

Granville Hall was the recorder of Wheeling Convention debates that led to the formation of West Virginia. J.R. Clifford was West Virginia's first black attorney, a schoolteacher, principal, and newspaper owner. The play was written to commemorate West Virginia's sesquicentennial and was sponsored by the J.R. Clifford Project.

The cast included Circuit Judges Gary Johnson, Jay Hoke and Tod Kaufman; former Supreme Court Justice Larry Starcher; Kanawha County Magistrate Kim Aaron and her husband, Bob; Supreme Court Clerk Rory Perry II and former Supreme Court Clerk Ancil Ramey; Supreme Court Law Clerk Peter Chambers; and former Congressman Alan Mollohan. Kanawha County Commissioner Kent Carper and Kanawha County Delegate Meshea Poore were among the introductory speakers.



Twenty-Eighth Judicial Circuit Judge Gary Johnson, center, and Twenty-Fifth Judicial Circuit Judge Jay Hoke, right, were among the judicial officers who performed in "A new Home for Liberty" on October 18, 2011, at the Charleston Civic Center.

## Family law judge's pooch provides a soothing presence

By Cheryl Caswell  
*Charleston Daily Mail*

WINFIELD, W.Va. - In the busiest family courtroom in West Virginia, the judge has a secret weapon to relieve stress and tension. His name is Buddy.

Putnam Family Court Judge William Watkins has been bringing his dog to work since he adopted him in March. He's now a fixture on the second floor of the county courthouse.

Buddy, a Welsh Corgi-Australian Cattle Dog mix, regularly cruises through the judge's reception area, making friends with children and adults waiting their turn before the bench. And he assists in the courtroom, too.

"He loves people, especially children," said Watkins. "He's worth his weight in gold. When we have high-pressure cases, you can just see the weight lifting out of the room. People just calm down.

"He goes around the courtroom and says hello to everybody, and then comes up and sits by me," said the judge.

Watkins handles 2,500 divorces, domestic and child custody disputes annually — more than any other family court in the state. Parties are usually under high stress.

Buddy helps defuse that atmosphere, wagging his tail, willingly licking faces and hands, showing off his chew toys, begging for a rub and playing with kids.

"He's a real positive asset to the operation," Watkins said.

In March, lonely after his Great Dane died, the judge decided to walk next door to the animal shelter and look over the available pets.

"He brought me his bone, and that was it," Watkins said. "He adopted me."

In an ironic twist, the dog's original owners ended up in Watkins' courtroom and were surprised to see their former pet.

He had a bad habit of running away, they said.

"Turns out he's extremely friendly but extremely curious," the judge said. "Anything distracts him. He showed up in Culloden."

The former owners are comfortable with Buddy's — a.k.a. Buggy's — new life.

"Everybody knows him around here now. He comes with me here every day. He's the office mascot," said Watkins.

One of his favorite spots is looking out a courtroom window toward the nearby elementary schools.

"He watches the kids and wants to be over there with them," Watkins said.

Watkins knows everyone is not a dog lover. Buddy still wins most people over, including his secretary.

"She is not crazy about dogs. She was bitten once," he said. "But she likes Buddy."

And it's not just the stress of others that Buddy helps out with. Watkins has had heart surgery and his physicians have cautioned him to find ways to relieve stress.

"Are you kidding?" he asked them. "I have the most stressful job in the world."

But in between making tough decisions for families, the judge can often be found on the floor of his office, petting Buddy.

"He's just made everything easier around here," he said.



Putnam Family Court Judge William Watkins has been bringing his dog Buddy to work since he adopted him in March. He's now a fixture on the second floor of the courthouse.  
*Photo by Tom Hindman, Charleston Daily Mail*

## Transitions



### **Former Circuit Judge George Hill dies**

Former Fourth Judicial Circuit Judge George "Skip" Hill died December 9, 2011, in Charleston's Hubbard Hospice House after battling several health issues, said his daughter, Susan C. Richardson, of Parkersburg. He was 81.

Judge Hill was born July 11, 1930, in Fairmont. He graduated from Yale University in 1952, where he lettered in both track and football. He was a halfback on the football team and on the track team he set a Connecticut record in high hurdles. During the Korean Conflict from 1952-1955 he was a lieutenant commander on the destroyer USS Sigourney.

After his military service he attended West Virginia University College of Law, where he was editor of the Law Review. He practiced law for thirty years before being elected to the bench in 1988. He retired in 2006.

He was a member of the West Virginia Bar Association, the Elks BPOE 198, the Kiwanis Club, and he was on the board of directors for the American Red Cross.

Judge Hill also is survived by daughter Jean M. D'Aquila and son Robert H. (Charlotte) Hill, both of Parkersburg, and two grandchildren.

George Lantz of Parkersburg became friends with Judge Hill in 1955 when they entered law school together. "He was my first West Virginia friend when I came to Morgantown from Pennsylvania in 1955," Lantz said.

They moved to Parkersburg in 1958 and had been friends ever since. "He was well respected and had an outstanding career as a lawyer and a judge," Lantz said. "He was never hesitant to take on and make the tough decisions as a circuit judge. He was a good man and he will be missed in this community."

## Announcements

- \* **CIP Oversight Board Meetings** confirmed for 2012: February 3, April 27, August 10, and October 26.
- \* **CIP cross-training conference** — July 23-24, 2012 at the Charleston Marriott and July 26-27, 2012 at the Lakeview Resort in Morgantown.
- \* **Amendments to the Rules of Procedure for Child Abuse and Neglect Proceedings** will go into effect on January 3, 2012. To see the changes, go to the court's website: [www.courtsww.gov/legal-community/court-rules/Orders/2011/11-22-2011-ChildAbuseNeglect.pdf](http://www.courtsww.gov/legal-community/court-rules/Orders/2011/11-22-2011-ChildAbuseNeglect.pdf).

## **Judge Arthur Recht retiring in January**

Judge Arthur Recht is retiring January 31, 2012. Judge Recht was appointed to the First Judicial Circuit (Brooke, Hancock, and Ohio Counties) in 1981 and elected in 1982-83. Then-Governor Gaston Caperton appointed Judge Recht to be a Justice on the West Virginia Supreme Court from 1994 to 1996 to fill the unexpired term of retired Justice Richard Neely. In 1996, he was again appointed to the First Judicial Circuit and was elected in 1998, 2000, and 2008.

Judge Recht was born in Wheeling in 1938 and received his law degree from West Virginia University College of Law in 1962. He was the President of the Judicial Association from 2002-2003 and received the Distinguished West Virginian Award in 1997.

Judge Recht is married to the former Karen Markham and they have two sons and two great-grandchildren.

## **Counsel for Judicial Investigation Commission to retire**

Skip Garten, Counsel for the West Virginia Judicial Investigation Commission for the last twenty-nine years, will retire on December 31. As Counsel, Mr. Garten reviews each complaint and either refers the matter to an examiner for investigation, asks the respondent judge for a response, or sends it directly to the members of the Commission for study prior to consideration at the next meeting. Those complaints which are referred directly to the Commission for consideration at a meeting are either dismissed for lack of probable cause or referred to an examiner for investigation. Mr. Garten also handles advisory opinions for judicial officers.

Teresa Tarr was hired on November 16 as Mr. Garten's replacement. Ms. Tarr has been a lawyer for about twenty-one years and has spent the last two and a half years as the Violence Against Women Resource Prosecutor at the West Virginia Prosecuting Attorneys Institute. Ms. Tarr received her law degree from Ohio Northern University.

## **Two AO staff members get graduate degrees**

Tammy Collins, a Supreme Court Statistical Analyst/Researcher, recently received a doctorate degree in human development and family science from The Ohio State University. She also has a master's degree in counseling and a bachelor's degree in journalism-public relations from Marshall University.

Prior to working at the Supreme Court, Ms. Collins held positions as a Planning and Evaluation Specialist at the Center for Learning Excellence at The Ohio State University; Planning and Research Administrator for the Ohio Department of Alcohol and Drug Addiction Services; Senior Planning and Evaluation Specialist with the West Virginia Prevention Resource Center housed at Marshall University Graduate College; and she was a Policy and Planning Coordinator for the State of West Virginia's Division of Criminal Justice Services. Ms. Collins is 42 and lives in Milton.

Children's Services' Administrative Assistant Tanya Wiggins recently received a master's degree in criminal justice from the University of Cincinnati.

## Justice Davis swears in last SOISO officers



From left to right: Christopher Salmons, Stephanie Camp (from Region III), Donald King, Angela Perdue, R. Jonathan Fields (team coordinator for Region IV), Kristen DeRito, and David Sales. Seated in front are Mike Lacy and Caren Bills. Photo by Jennifer Bundy

Justice Robin Jean Davis swore in seven sex offender intensive supervision officers (SOISO) on November 17 in the Supreme Court Chamber, bringing the specialized group of probation officers to full force.

Six of the officers will work in Region IV, which covers Kanawha, Clay, Braxton, Gilmer, Webster, Nicholas, Calhoun, Jackson, and Roane Counties. They are Team Coordinator R. Jonathan Fields and Officers Kristen DeRito, Donald King, Angela Perdue, K. David Sales, and Christopher Salmons, II.

Justice Davis also swore in Stephanie Camp, who is filling a vacancy in Region III. That region covers Brooke, Doddridge, Hancock, Marshall, Ohio, Pleasants, Ritchie, Tyler, Wetzel, Wirt, and Wood Counties.

The specialized officers work under provisions of the Child Protection Act of 2006 (House Bill 101, passed June 14, 2006). The law requires extended supervision for sex offenders, especially those convicted of crimes against children. The officers' only duty is to supervise sex offenders.

The first group of sex offender probation officers was hired in November 2008. The supervision program was expanded one region at a time throughout the state. With the hiring of these officers, there are now thirty-three SOISO officers serving every county in West Virginia.

The SOISO program was developed under the leadership of Justice Davis when she was Chief Justice in 2006 and 2007. Her support was crucial in refining the vision of the supervision protocol.

### Upcoming Holidays

December 26 — Christmas Day observed — Offices Closed

January 2 — New Year's Day observed — Offices Closed

January 16 — Martin Luther King Day — Offices Closed



# The Early Days of Ohio County Magistrate Court

By Ohio County Magistrate Joe Roxby

On May 15<sup>th</sup>, 1776, the Revolutionary Government of Virginia declared independence from the mother country. Among the first orders of business was the creation of new county governments. On January 6<sup>th</sup> 1777, a group of landholders were summoned to Black's Tavern (present day West Liberty) by three men appointed by the Virginia legislature to form the basis of government for Ohio County. The first two offices to be created and filled by that body were the Magistrate Court and Sheriff's Office.

Legend has it that, once appointed, the first sheriff immediately left town on a fast horse to attend an out of town law enforcement convention at county expense. Not to be outdone, the magistrates cancelled court for the remainder of the day so they could attend a steak fry for a bit of politicking at Van Meter's fort. Humor aside, the offices would share a close history through the early days. By 1800, the custom had developed that, like today, four magistrates were elected. The senior most member of that group took the office of Sheriff, with the rest serving as magistrates.

The duties of the first sheriff, John McColloch, were not unlike that of any of his counterparts in any other state, law enforcement and tax collection. Magistrate court was quite another matter. Older than the state, January 6<sup>th</sup>, 2012 marks the 235<sup>th</sup> anniversary of Ohio County Magistrate Court. It is most interesting to look back on the earliest days of the institution.

Even prior to the official birth of Ohio County, our magistrate's court got off to a rollicking start. Jurisdiction of the area between Ohio and Monongahela Rivers had been a subject of controversy between the royal states of Virginia and Pennsylvania. Each state appointed their own magistrates and by 1775 the dispute had become so heated that the Pittsburgh sheriff arrested Virginia's vice-governor. In retaliation, Virginia officials arrested three Pennsylvania magistrates and sent them south on a leaky boat to Wheeling where they became unwilling guests at the newly erected Fort Henry. The Keystone justices complained, "We were exposed to every species of insult and abuse."

## *The First Magistrates*

The first four magistrates to be appointed at the first court session were David Shepherd, Silas Hedges, William Scott, and James Caldwell. Later in that session Zachariah Sprigg, Thomas Waller, and Daniel McLain were also sworn in and James McMechen was appointed the first clerk of the court. Some of the other earliest magistrates were Solomon Hedges, Edward Robinson, James McMechen, John Williamson, John Boggs, John Robinson, John Doddridge, James Miller, Ebezener Zane, Charles Wells and James Gillaspay. The first lawyers to be admitted to practice in the new court were Phillip Pendleton and George Brant, but this did not happen until Nov. 2<sup>nd</sup> 1778. David Shepherd would become the pre-eminent figure of that group and the soul of the local government. He was the first magistrate, the second sheriff, and County Lieutenant. Despite the military sounding title of latter, it was a civil office that was responsible for keeping the muster rolls of the militia. A short time later he was given the military office of Colonel of the Ohio County militia.



Possible site of the first Ohio County Courthouse.  
*Photo by Michael Switzer*

Worth noting, simply to accept the office of magistrate or any other in the new government was a chancy proposition. Officeholders posted their farms and personal property as a bond against any financial malfeasance. At least two area sheriffs from the period left office ruined financially as a result. Further, in a very real sense anyone who accepted any office was a traitor to the King of England. Should the revolution fail, the hangman's noose might well be their lot. While those first county officials may have been out of King George's immediate reach, his mercenaries, the Indians, were close at hand. Royal wrath would fall on Ohio County in full fury in the coming summer and fall.

The birth year of the county would be remembered on the frontier as the Year of the Bloody Sevens with good reason. By the summer of 1777, conditions in the county had become so dangerous due to Indian raids that civil government was suspended. Nearly every Ohio County family would lose a member and in some cases none were left to tell the tale. Many families would leave the area before winter. Adding to the chaos, neighbors began to view each other with suspicion as local Tories suspected of passing information to the Indians became a nearly as great a worry. Several Loyalists in neighboring Washington County, PA would meet with suspicious accidents on their way to trial.

For a new government to survive so dire a crisis a real leader had to emerge and for that reason our first magistrate, David Shepherd, deserves special mention. Originally from Berkeley County, he came to the area about 1773. The following year he built a grist mill at and a family fort at Monument Place. His daughter-in-law Lydia described him as, "*Episcopalian, a little short of six feet, corpulent, 240 pounds weight, light complexion, blue eyes, great good sense, brave, honest, liberal and benevolent, greatly loved.*" He briefly assumed nearly dictatorial powers and for the second half of 1777, the county government was located wherever Col. Shepherd happened to be seated. His tale also demonstrated the perils of power and how harsh frontier life could be. On September 1<sup>st</sup>, 1777, he was the commander of the fort at the first siege of Fort Henry. He had the brief joy of seeing his oldest son William escape an ambush where most of his fellow soldiers had been killed, only to see him tomahawked as he watched from the walls of the fort, just yards from safety. A couple of hours later Shepherd saw his son-in-law, Francis Duke, shot out of the saddle just outside the gates as he tried to ride to the relief of the fort.

If David Shepherd deserves special mention as the embodiment of civic virtue, early magistrate Sam Mason deserves it for the opposite reason. Though not listed in primary sources, period historian Boyd Crumrine lists him as an Ohio County magistrate in his excellent *History of Washington County*

Mason was a militia captain and a hero of Fort Henry. Ironically he was a survivor of the same ambush where Shepherd's son was killed. He left the area about 1782, and by 1800, had become one of the most feared and bloodthirsty brown water pirates on the lower Ohio and Mississippi Rivers. John James Audubon would write in 1815, "*The name of Mason is still familiar to many of the navigators on the lower Ohio and Mississippi. By dint of industry in bad deeds, he became a notorious horse stealer, forming a line of worthless associates from the eastern part of Virginia to New Orleans, . . . His depredations were the talk of the whole western country.*" (2) American Wild West historian Paul Wellman would later refer to Sam Mason as "the first real genius of outlawry on the frontier."

### **Early Civil Duties**

The First Magistrate Court wielded a vast amount of authority. It was not that our early magistrates were power hungry; it was simply a case of no government and those early justices stepped in to fill a very urgent void. The Ohio River represented the edge of civilization. Beyond the river's edge existed only the tribal law and what existed east of the Virginia shore was most rudimentary. The frontier society of that time was an unusual mix of faith and felony. Early pioneers left their doors unlocked so that a wayfarer might find shelter should the family not be present. It was also so dangerous that outlaws on the trail might murder a stranger simply for his clothing.

*(continued next page)*

At that time, Ohio County consisted of all four counties that make up the Northern Panhandle. In today's terms the body at Black's Tavern effectively operated as Magistrate Court, Circuit Court, County Commission and roughly split the duties of Assessor with the Sheriff. They probated wills, heard libel cases, granted licenses and established prices for taverns, registered hog brands, ordered roads built, and settled juvenile matters for good measure. The following orders are from the earliest records and demonstrate the widely varied duties of the court.

*Ordered that Ebenezer Zane, Conrad Wheat and Sam Mason, agreeable to the former order of this court for the purpose of laying out the most direct way for a road from Fort Henry to the first forks of the Wheeling (Elm Grove).*

*Ordered that James Fitzpatrick, an orphan child, be bound to Sam Bruce to learn the art and mystery of a Taylor until he shall arrive at the age of Twenty One.*

*Upon the motion of Jacob Newland, ordered that his mark a crop in the left ear & hole in the right ear be recorded.*

*William Caldwell vs. Isaac Taylor, dismissed, not properly served.*

*Ordered that a license be granted unto Jacob Wolf for keeping an Ordinary (Inn) at his home.*

*Ordered that Ordinary (Inn) Keepers in this County sell at the following rates,*

<i>For Half pint Whisky</i>	<i>6 dollars</i>
<i>Breakfast or Supper</i>	<i>6 dollars</i>
<i>For a horse to hay for 24 hours</i>	<i>6 dollars</i>
<i>For 1 Qt. strong beer</i>	<i>4 dollars</i>

### **(3) Criminal Law**

The first magistrates at Black's Tavern were a stern-eyed gentry in an iron-handed age. Raw whiskey and rough-sawed justice were served up at the same bar. Frontier life was rugged and dangerous, and those who meted out justice did not suffer fools gladly. One should remember that even in the more civilized Merry Old England at that point, there were still over 100 offenses carried the death penalty. Slavery and indentured servitude were legal and dueling was common. Our legal forefathers were clearly not affected by any Quakerish notions of restorative justice. The great chronicler of the period, Rev. Joseph Doddridge, simply noted that the common belief was "a thief should be whipped." For minor offenses, the guilty one would carry the flag on their back, thirteen stripes, and for major offenses it was the biblical forty minus one, well laid on.

Notably, after ordering construction of a courthouse and jail, the next items purchased were stocks and a whipping post. Doddridge also stated, "*For many years after the law was put into operation in the western part of Virginia the magistrates were in the habit of giving those who were brought before them on charges of small thefts the liberty of being sent to jail or taking a whipping. The latter was commonly chosen and was immediately inflicted, after which the thief was ordered to clear out.... He was there informed that he must decamp in so many days and be seen there no more on penalty of having the number of stripes doubled.*"

(4) Local law enforcement was no doubt delighted as this system dramatically cut down the recidivist rate and the county commissioners were equally overjoyed about the reduction in jail costs.

For conduct that offended public-at-large sensibilities, but not quite meriting capital punishment, there were extra-judicial punishments meted out by the community such as "tar and feathering" or an exercise simply known as "hating out the offender."

When the court imposed fines they were given they were paid in tobacco, corn or other produce. The paper money in circulation at the time was almost worthless and hard coin was nearly non-existent. Labor was sometimes accepted as a substitute.

## ***The First Jail and Courthouse***

One of the first orders of business for the new county government was the building of a proper courthouse. No account of those would be complete without a description of our first courthouse and jail.

*"A Diamond Cornered house of Dimentions Twenty Two by eighteen feet in the Clear, one Story & one half high, a floor above & below of hewd or sawn plank; Ten Joice in the upper floor, nine or ten feet high; in the Lower Story a Coart's Bench and Clark's Table  
Two windows of eight lights each eight by ten inches; a pair of stairs & Cabbin Roof; a plain Door & hinges of Iron; likewise plain window Shutters, with Iron hinges"*

*A Jail Twenty by sixteen feet on the outside, the Loggs of the walls to be round & Close laid the loft; floors and partitions to be of loggs squarid to eight inches thick; Two Rounds of Loggs above the Loft; Cabbin Roofd & windows agreeable; A Stone Chimney with Iron Gates, the doors done with nails, Lock Sufficient; the Loft and Floor to have each a Large Summur Supporting them in the middle. (5)*

These structures would serve until the seat of government was moved from West Liberty to Wheeling. Court was first held in The Friendly City on May 8<sup>th</sup>, 1798. For a bawdy and brawling river town like Wheeling was during that period, it was fitting that hard liquor and hard jurisprudence should once again served at the same bar. This time it was at a local tavern known as Gooding's Inn. By the early 1800s, a new courthouse was finished in the area of 10<sup>th</sup> and Main streets. If anyone expected any softening of attitude toward bad behavior, they were sadly mistaken as Wheeling's first courthouse was also equipped with a whipping post. What else would one expect from a town whose name is derived from a Delaware word meaning "Place of the Skull."

This author knows of no pictures of that structure to exist, but it must have been an odd looking building. It was described as a square structure with a four-sided roof and a cupola in the center. An early visitor who looked at it remarked, "*Folks here must be awfully fond of ham, why else would they build such a large smokehouse?*" It was not until 1839 that a more dignified structure was finished at 12<sup>th</sup> and Chapline streets where the present day Board of Trade building now stands. An aside, Ohio County's last hanging was carried out privately in the jail in the rear of that building in 1893. The large scale public executions performed in the mid-1800s had by this time fallen out of favor.

This year as we celebrate the 235<sup>th</sup> anniversary of our first judiciary, all four Northern Panhandle magistrate courts can claim descent from that earliest log cabin court. When our present serving magistrates are having a bad day due to malfunctioning equipment or overzealous attorneys, they should take heart. They would do well to remember the earliest days of our courts where they had a tomahawk for a gavel, a long rifle for a bailiff, and the commute to work during the Indian raiding season could be a real killer.

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Lobdell, Jared C. (ed.), *Indian Warfare in Western Pennsylvania and North West Virginia at the Time of the American Revolution*, Bowie, MD, Heritage Books, 1992.

Wellman, Paul I., *Spawn of Evil*, Garden City, New York, Doubleday & Co., 1964.

Crumrine, Boyd (ed.), *Ohio County Book of Order*, Philadelphia, Pennsylvania, L.H. Everts & Co., 1882.

Doddridge, Joseph, *Notes on the Settlement and Indian Wars of the Western Parts of Virginia and Pennsylvania (1824)*, Pittsburgh, John S. Ritenour & William T. Lindley (eds.), 3rd ed., 1912.

Crumrine, Boyd, *Ohio County Book of Order*, Philadelphia, Pennsylvania, L.H. Everts & Co., 1882