



# Amicus

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Chief Justice Menis E. Ketchum presents the Supreme Court budget to members of the West Virginia Senate on January 25, 2012. Photo by Martin Valent, Legislative Photographer

## Chief Justice Ketchum presents budget to Legislature

Chief Justice Menis E. Ketchum presented the Supreme Court's 2012-2013 budget to the House and Senate Finance Committees January 24-25. Chief Justice Ketchum promised to be frugal with the state's

money and, pursuant to that promise, on February 27 Supreme Court Administrator Steve Canterbury notified the committee chairmen that the Court was lowering its appropriation request by \$2.2 million. The Court reduced administrative costs by \$539,761 and realized that because an unfunded liability no longer exists in the Judicial Pension System it could return \$1.741 million to the general revenue fund.

Chief Justice Ketchum also told the Finance Committees that West Virginia could save about \$3 million a year by changing how it handles involuntary hospitalizations. In 2010, the most recent year for which figures were available, 7,193 petitions for involuntary commitment were filed statewide. In West Virginia, attorneys acting as mental hygiene commissioners decide whether people should be involuntarily hospitalized, but in other states mental health professionals make those decisions. Chief Justice Ketchum recommended the Legislature study the issue for a year to come up with legislation for next year's session.

## *From the Chief*

*Editor's Note: This is the final From the Chief article by Justice Workman. The articles run in the West Virginia Lawyer magazine before they can run in the Amicus, by agreement. Chief Justice Ketchum's first From the Chief article will appear in the next Amicus.*



### **Administering the courts more than just moving cases**

By Chief Justice Margaret L. Workman

Court administration in the Twenty-First Century has become much more than just keeping track of cases on the dockets. As administrative head of the entire state court system, the Supreme Court has steadily expanded its programs and goals in order to keep up with this national trend. Each justice and many judges are contributing to this effort.

For example, during one week in September, the Adjudicated Juvenile Rehabilitation Review Commission toured the West Virginia Industrial Home for Youth in Salem. The Commission was created in June to review the Division of Juvenile Services' operations and programs at the Salem facility and at the Honey Rubenstein Center in Davis, West Virginia's two secure facilities for juveniles who have been adjudicated delinquent. During the day at the Industrial Home, the commissioners and I split up into small groups and talked to the young people housed there and the people who oversee the facility. The day ended with a Commission meeting that lasted into the evening, discussing our impressions, findings, and future activities. On Oct. 26, 2011, the Commission visited Rubenstein. The Commission will determine whether to broaden the scope of its inquiry and will report its findings to the Supreme Court.

During the same week, Justice Robin Jean Davis held the first meetings in the Supreme Court's new effort to coordinate judicial truancy programs in West Virginia. She and Nineteenth Circuit (Barbour and Taylor Counties) Judge Alan Moats held community meetings in Charleston, Clarksburg, and Morgantown.

Also that same week, Justice Brent D. Benjamin held a public forum in Huntington to discuss barriers to access to courts, the third of six such forums the Access to Justice Commission is holding around the state. Justice Benjamin has been working with the Commission for the last two years, finding ways to make the courts more accessible to everyone. One direct result of the Commission's work is last year's successful legislation adding a fee to civil filings with the Supreme Court, with funds dedicated to legal aid programs.

Meanwhile, back at the office, Justice Menis Ketchum and Justice Thomas E. McHugh continued to work on their special projects. Justice Ketchum, who will become Chief Justice in 2012, is working with Supreme Court Clerk Rory Perry to develop pattern jury instructions in plain English. It will help judges and lawyers in making the law better understood by juries.

Justice McHugh continues his work with civic education, which he sometimes does in concert with the West Virginia Board of Education. He has served as a judge on the selection committee for the annual United States Senate Youth Program. He also presents seminars at State Bar conferences on Supreme Court opinions and narrated *The Foundation of Justice*, an educational video about the judicial system distributed to thousands of West Virginia students.

As the demands of court administration have grown, Administrative Director Steve Canterbury and his staff are also meeting the challenge, working with circuit clerks and magistrate clerks around the state on training, document storage, statistics collection, technology and jury management; planning dozens of continuing education conferences throughout the year for judicial officers and our employees; overseeing and staffing Supreme Court boards and commissions; and designing and managing a statewide judicial technology system. Administrative directors supervise probation officers and mental hygiene commissioners, operate the Mental Hygiene Registry, and coordinate civic education programs, among many other duties.

The stakes are high in each of these areas if our system lives up to the challenges of modern-day court administration. Citizens need to understand how our government works. Jurors need to understand basic instructions of law when deciding cases. Truancy left unaddressed will result in bigger problems in the courts later. Juvenile institutions need to focus on rehabilitation to reduce recidivism. And there needs to be fair access to the courts in order for the system to be open and available to address citizens' grievances. Failure in any of these areas reduces the quality of justice for all – and ultimately costs taxpayers more money.

Many circuit court and family court judges are also stepping up to the plate in efforts to improve our system. Twenty-one circuit court judges and five family court judges are voluntarily presiding in eleven regional adult drug courts serving twenty-eight counties and ten regional juvenile drug courts serving twelve counties. In late 2011, the twelfth adult regional drug court opened in Wayne County. As recently as late October, the circuit court judges of the Fifteenth Judicial Circuit have indicated that they wish to work together to start a juvenile drug court in their area. Each of these judges deserves special commendation because they are doing a lot of extra work with no extra compensation. Justice Benjamin deserves commendation for attempting to attend every drug court opening and graduation to show support for these very important programs.

Beyond these special initiatives, many judges are engaged in community outreach, including visiting schools to read to children and to talk about the judicial system, hosting mock trials and contributing to civic education programs.

Besides established committees such as the Judicial Investigation Commission, the Judicial Hearing Board, and the education committees, there are now a number of new committees focused on special issues on which many judges and magistrates also serve, including the Court Improvement Program, the Business Court Committee, the compliance committee to monitor jail and prison overcrowding, and the newly formed Spousal Support Guidelines Committee.

The 2011 *Future Trends in State Courts* publication summarized it best when it quoted Hawaii Supreme Court Chief Justice Mark E. Recktenwald: “The role of the judiciary has evolved substantially over the years, from simply deciding cases to helping, in many instances, to address the underlying problems and alleviate the impacts of these problems.”

Today, courts throughout the country and judges at all levels of the court system are expected to do more in the context of modern judicial systems to improve the law and legal system. Through hard work and dedication, West Virginia's bench is meeting the challenge of the transition in to a modern Twenty-First Century court system.

## Supreme Court hears cases at WVU law school

The Supreme Court of Appeals of West Virginia heard four cases on a Rule 20 Argument Docket and judged the annual George C. Baker Cup moot court competition on March 6 at the West Virginia University College of Law in Morgantown.

The justices heard arguments in the Marlyn E. Lugar Courtroom.

Chief Justice Menis Ketchum, Justice Robin Jean Davis, Justice Margaret Workman, and Justice Thomas McHugh are graduates of the College of Law. Justice Brent Benjamin has undergraduate and law degrees from The Ohio State University.

Cases on the law school docket are chosen for their educational value and interest to law school students. The cases on this year's docket were:

Bobby and Amanda Messer v. Hampden Coal Company, LLC, No. 11-0469. Plaintiffs appealed the circuit court's order denying their motion for new trial, arguing that the circuit court erred in refusing to strike a prospective juror.

State of West Virginia v. Franklin Junior Kennedy, No. 11-0223. Franklin Junior Kennedy appealed an order denying his motion for a new trial. Kennedy was convicted of first degree murder (with mercy) in November 1996. In 1999, the Supreme Court affirmed his conviction, which was overruled in part by *State v. Mechling* in 2006.

Rashiad Robinson v. Pamela Jean Games-Neely, Prosecuting Attorney, No. 11-0415. Robinson appealed the circuit court order holding that \$3,960 and the 2005 Audi A8 seized from him were subject to forfeiture.

Dr. Joe J. White, Jr. v. Joe E. Miller, Commissioner, WV Division of Motor Vehicles, No. 11-0171. Dr. Joe J. White Jr. appealed a circuit court order affirming the final order of DMV Commissioner Joe Miller, which revoked his driver's license for first offense DUI.



The Justices of the Supreme Court of Appeals of West Virginia listen to oral arguments at West Virginia University School of Law on March 6. *Photo by Jennifer Bundy*



Baker Cup winner and runner-up with the Justices of the West Virginia Supreme Court. *Photo by Jennifer Bundy.*

This year's Baker Cup winner was Adam LoCasio, a 2nd Lt. in the U.S. Marine Corps from Huntington. The runner-up was Caitlin Bailey of Charleston. Mr. LoCasio received a \$500 cash prize, a plaque, and his name engraved on the Baker Cup. Ms. Bailey received a \$350 cash prize and a plaque. Ms. Bailey also won a \$150 cash prize and plaque for best oral advocate.

The George C. Baker Cup Moot Court Competition for second year students at West Virginia University's College of Law is judged each year by the Supreme Court. This year's topic centered around the constitutional rights of an individual who is arrested, focusing on the Fourth Amendment, which assures freedom from unreasonable seizures, and the 14th Amendment, which guarantees the right to due legal process. The case involved an arrested man who claimed police used excessive force and caused him injury after his arrest.

## **Court seeks public comment on proposed Business Court rules**

The Supreme Court is seeking public comment on proposed rules for a Business Court in West Virginia.

The Court on February 9 considered draft rules presented by the Business Court Study Committee, led by Twenty-Fourth Judicial Circuit Judge Darrell Pratt. The Supreme Court created the study committee in June 2010 in response to House Bill 4352, which the Legislature passed in March 2010.

The Court has decided a period of public comment would greatly assist it in its further consideration of the Committee's submission.

The proposal would amend the West Virginia Trial Court Rules, creating Rule 29, Commercial Litigation. A link to the proposal is available on the Supreme Court website at <http://www.courtswv.gov/legal-community/requests-for-comment.html>.

Comments should be filed in writing to the Clerk of the Court on or before May 11, 2012.

## Drug Courts



Chief Justice Ketchum.  
Photo by Michael Switzer

Chief Justice Menis Ketchum was the keynote speaker at the February 6 opening of the Adult Drug Court in Wayne County. Justice Brent Benjamin also attended the ceremony at the Wayne County Courthouse.

"There are a large number of people involved in non-violent offenses who are addicts," said Seventh Judicial Circuit Judge Darrell Pratt. "We are going to help these people and deal with their addictions first.

"In order for this to work, the program has to be intensive, and it has to be long term," Judge Pratt said, according to a story in *The West Virginia Record*. The participants in the drug court program will appear in front of Judge Pratt every week and will have weekly rehabilitation, counseling, and drug screenings. "We're going to be dealing with drug addicts who have happened to commit crimes, not criminals who have a drug habit."

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Supreme Court Justice Brent Benjamin on February 21 congratulated the two most recent graduates of the Brooke-Hancock Juvenile Drug Court Program. They were the eighth and ninth youths to complete the program in Weirton.

"The Supreme Court appreciates the efforts of the entire team working to help these young people get through this program, with credit to Judge Martin Gaughan and now Judge Robert Stone," Justice Benjamin said. Senior Status Judge Stone is sitting in for First Judicial Circuit Judge Gaughan, who is ill.

Judge Stone said the program works because of the three major components of the program: supervision, outpatient therapy treatment, and family involvement and accountability. "We're not here to set these young people up to fail, and when they succeed we are here to celebrate with them," Judge Stone told the *Weirton Daily Times*.

Juvenile Drug Court Probation Officer Jodie Mankowski said "this program allows us to work in the homes so we can address every problem."

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Probation Services Director Mike Lacy led a meeting March 6 to discuss establishing a juvenile drug court in southeastern West Virginia. Director Lacy told those gathered at the Greenbrier County Courthouse in Lewisburg that the philosophy of juvenile drug courts is "Do it; do it early," according to a story in *The Beckley Register-Herald*.

There are about seven thousand youth under some form of court-ordered diversion program or supervision by a probation officer in West Virginia, Director Lacy said. The target population is children between the ages of ten and seventeen who are non-violent misdemeanor or felony offenders or drug/alcohol-related status offenders. Their psycho-social assessments demonstrate substance abuse or high risk for substance abuse and they have no previous adjudications for a sex offense. Juveniles must be clinically assessed prior to admission to the program and must be referred.

Eleventh Judicial Circuit Judge James Rowe said, "I see it every day. There's an increasing use of drugs and alcohol in our youth. I'm hopeful that we can save these young people whose lives are being destroyed by drug and alcohol use."

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Two people graduated from the Preston County Adult Drug Court on March 7. Dustin Miller and Holly Green-Brooks were the sixth and seventh graduates since the drug court began operating on April 20, 2009, with Eighteenth Judicial Circuit Judge Lawrance S. Miller, Jr., serving as the Treatment Court Judge.

Mr. Miller, who began the program on April 5, 2010, is the father of four children. The last one, Blake Alan Miller, was born on November 30, 2010, while his father was in the drug court program. The program has helped Mr. Miller become more of an active father. He now leads two community Narcotics Anonymous meetings and helps at one other meeting.

Ms. Green-Brooks began the drug court program on July 29, 2010, and on March 25, 2010, she gave birth to a drug-free baby, Bentley Levi Williams. Ms. Green-Brooks now leads one community Narcotics Anonymous meeting and helps with two others. She performed community service hours at the Preston County Courthouse, the Preston County Animal Shelter, and the Arthurdale Hospice.



Mike Kelly, Kanawha County Family Court judge, the Rev. Michael Poke of St. Paul's Baptist Church, Family Court Judge Sharon Mullens, retired principal Betty Spencer and attorney Elliot Hicks, at a Black History Month presentation February 23. Photo by Tom Hindman, Charleston Daily Mail

## Kanawha County Family Court celebrates Black History Month

The Eleventh Family Court Circuit Bench/Bar Committee held a CLR presentation and reception February 23 in honor of influential black litigators and leaders in West Virginia history. The

presentation was part of a continuing legal

education series and was organized by Family Court Judge Sharon Mullins. Attorney Elliot G. Hicks, the Rev. Jeffery Chandler Woods, and retired Kanawha County Principal Betty Spencer were among the speakers. It was held in the Kanawha County Judicial Annex.

Those honored were

- Mildred Mitchell-Bateman, a pioneer of mental illness treatment who became the first black woman to serve in a high-ranking state office when she became state Mental Health Commissioner in 1977;
- Civil rights attorney Herbert H. Henderson, a president of the West Virginia chapter of the NAACP who was lead counsel in lawsuit that forced the West Virginia State Police to hire black officers;
- Dr. Mattie V. Lee, West Virginia's first black physician;
- Attorney Brown Hugo Payne, who was instrumental in desegregating the Raleigh County school system and in 1972 helped re-establish the Mountain State Bar Association;
- Kanawha County's first black Principal, Mary C. Snow; and
- Dr. William J.L. Wallace, who was a chemistry professor at West Virginia State University before becoming the institution's sixth president.

## Justices hit the road

### Justice Benjamin speaks in Wheeling, appears on *Legislature Today*

Supreme Court Justice Brent Benjamin was the featured speaker at the regular meeting of the Mountaineers for Responsible Government on March 2 at St. Johns Evangelical Presbyterian Church in Wheeling.

"We like to think we run an efficient ship," Justice Benjamin said, explaining why the Court lowered its budget appropriation for the next fiscal year by \$2.2 million. "We're always looking for better ways to do things and opportunities to save where we can. You don't hear that a lot in government – trying to save money – but that's something that we do."

He encouraged those present to discuss the Court's action with their local legislators. "When they come and talk to you, ask them how they spent it," he said, according to a story in *The Wheeling Intelligencer*.

On February 8, Justice Benjamin appeared on *The Legislature Today* on West Virginia Public Broadcasting to talk about drug court programs throughout the state. On behalf of the Supreme Court, Justice Benjamin tries to attend as many drug court openings and graduations as his schedule will allow.

### Justice Davis, Judge Moats continue to talk truancy

Justice Robin Jean Davis was the keynote speaker at an Upshur County Schools Dropout Prevention Summit held February 16 at West Virginia Wesleyan College.

Last August, Justice Davis and Nineteenth Judicial Circuit (Barbour and Taylor Counties) Judge Alan Moats divided West Virginia into fourteen regions and began making community presentations to heighten awareness about truancy and its consequences for students, parents, and the state. They completed those presentations in November and now are talking to other groups by invitation. For example, they spoke at the winter conference of the West Virginia School Board Association on February 17 in Charleston.

Speaking before a crowd of about one hundred people at West Virginia Wesleyan, Justice Davis said, "The thing we have done — and it has not been done anywhere else in the country — is we brought what we believe to be all the stakeholders together."

Stakeholders include educators, probation officers, Department of Health and Human Resources workers, and circuit judges.

"There are very different and unique situations in each county," Justice Davis said. "The goal is to get all the stakeholders together, to work towards one plan, to attack the problem early on," according to a story in *The Buckhannon Record Delta*.

"If we get those children back in school at an early age, then we as a court system do not have to deal with them on the criminal side of our courts when these people become young adults," she said.

This spring Justice Davis has been making follow-up visits to courthouses around West Virginia to check on the progress of truancy programs. So far she has visited Braxton, Boone, Clay, Gilmer, Lewis, Lincoln, McDowell, Mercer, Putnam, Roane, Upshur, and Wyoming Counties.



An audience member asks Justice Davis and Judge Moats a question at a meeting of the School Board Association. Photo by Jennifer Bundy

## Robes to Schools



Chief Circuit Judge Louis "Duke" Bloom talks to students at Tyler Middle School. Photo by Chip Ellis

Judges around the state have been busy visiting schools to read, talk about the judiciary, and to make students aware of judicial efforts to reduce truancy.

**Thirteenth Judicial Circuit Chief Judge Louis H. "Duke" Bloom** was especially busy in February. He spoke to students at Tyler Middle School on February 2 about truancy and showed the Supreme Court film *The Foundation of Justice: Supreme Court of Appeals of West Virginia*.

Chief Judge Bloom told about fifty students at the alternative school that about eighty percent of the state prison inmates had chronic truancy problems. He said many of the criminals who go through his courtroom turned to selling drugs because they did not stay in school.

"The criminals I see in court are not the smartest in the room," Chief Judge Bloom told the students. "We want you to graduate from high school. We need to make sure you get what you need."

Last year, Supreme Court **Justice Robin Jean Davis** began leading an initiative calling on circuit judges to implement programs to help students who are habitually truant. Chief Judge Bloom said parents need to be held accountable for their truant children and that most parents don't understand the consequences they face when their children are not in school, according to the *Saturday Gazette-Mail*.

Later in the month, Chief Judge Bloom presided in two mock trials held in his courtroom, one on February 8 with students from Stonewall Jackson Middle School and the other on February 15 with Horace Mann Middle School students. The presentations were part of the Supreme Court's *West Virginia Law Adventure* program. **Twenty-First Judicial Circuit Judge Philip B. Jordan** presided in Keyser Primary Middle School's mock trial on January 27 in his courtroom in Keyser as part of the same program.

Unlike other mock trial programs in which students perform cases using scripts or materials prepared by adults, in *West Virginia Law Adventure* each class writes its own script based on one of three criminal case scenarios in the *Law Adventure* rules book. Students mail their written transcripts to the West Virginia State Bar. The Bar's Young Lawyers Section chooses winners, and the winners are invited to perform their mock trials at the Supreme Court. Students' trips to the courthouses and the Supreme Court are paid for by a grant from the West Virginia Bar Foundation.

Other judicial officers also have been busy with civic education programs. **Jefferson County Magistrate Gail C. Boober** chooses a local class each year to read aloud to. This year she is reading to the Kindergarten class at Blue Ridge Elementary School. She also participates in Career Day events at Jefferson County Schools.

Numerous judges and magistrates across West Virginia also read to students in honor of Dr. Seuss' birthday, which was March 2. Read Across America Day is an annual event held on the birthday of the late Theodor Seuss Geisel, better known as Dr. Seuss. The judges' and magistrates' participation in the event is part of the Supreme Court's *Robes to Schools* program. The goal of *Robes to Schools* is to have active and retired justices, circuit judges, family court judges, and magistrates make regular appearances in West Virginia schools.

On March 2, **Brooke County Magistrate Robin Snyder** read to students at Franklin Primary School; **Barbour County Magistrate Kathi McBee** read to students at Philippi Elementary School; **Hancock County Magistrate William Hicks** read to students at Liberty Elementary School; **Jefferson County Magistrate Gail Boober** read to students at Page Jackson Elementary School and Blue Ridge Elementary School; **Kanawha County Magistrate Julie Yeager** read to students at Chesapeake Elementary School and Elk Elementary Center; **Marshall County Magistrate William Anderson** read to students at Central Elementary School; **Seventeenth Judicial Circuit (Monongalia County) Judge Russell M. Clawges, Jr.**, read to students at North Elementary School; and **Twenty-Seventh Judicial Circuit (Wyoming County) Judge Warren McGraw** read to students at Pineville Elementary School.

Magistrate Yeager also read to students at Montrose Elementary School on March 1. **Twelfth Family Court Circuit (McDowell and Mercer Counties) Judge Anthony Bisaha** read to students at Athens School on March 1; **Twelfth Family Court Circuit (McDowell and Mercer Counties) Judge Mary Ellen Griffith** read to students at Melrose Elementary School on March 9; and **Raleigh County Magistrate Stephen D. Massie** read to students at Coal City Elementary School on March 9.

#### Upcoming Holidays

May 8 — Primary Election Day — Offices Closed

May 28 — Memorial Day — Offices Closed

## Kanawha County Chief Circuit Judge appoints new Juvenile Referee



Kanawha County Chief Circuit Judge Louis H. “Duke” Bloom appointed a new Juvenile Referee for Kanawha County. Chief Magistrate Traci Carper-Strickland took over the additional duties of Juvenile Referee on Monday, February 13.

Magistrate Carper-Strickland, 40, conducts detention hearings, juvenile bail hearings, juvenile preliminary hearings, and presides in truancy cases. She continues to serve as a magistrate, and as the chief magistrate she continues to handle administrative matters for the ten magistrates in Kanawha County.

“With Magistrate Carper-Strickland’s appointment, we will redouble our efforts on truancy cases and have more frequent hearings and meetings in and out of schools,” Judge Bloom said.

In 2011, Kanawha County had 307 juvenile delinquency cases; 418 juvenile status offender cases (those include truancy and incorrigibility cases); and 350 adult truancy cases.

“She’s uniquely qualified for the position because she understands the struggles that go along with being a working parent, like many of the folks she will see in Court,” said Judge Bloom, who became Chief Judge on January 1. “She has three children, and she has years of experience in juvenile matters in the Prosecutor’s Office.”

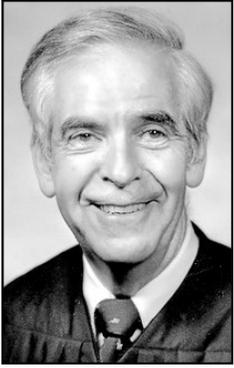
Magistrate Carper-Strickland worked in the Kanawha County Prosecutor’s Office as a paralegal and paralegal/secretary, including several years in the juvenile division, from January 1991 until September 1999, when she was appointed Magistrate. She was elected in 2000 and did not run for re-election in 2005. She was re-appointed Magistrate in 2007 and was elected in 2008. Magistrate Carper-Strickland is the mother of three boys: Will, 10; Andrew, 8; and Michael, 6. She is married to Charleston Fire Department Captain Mark Strickland. She has an associate’s degree in paralegal studies and an associate’s degree in criminal justice.

Kanawha County’s former Juvenile Referee, Ward Harshbarger, returned to the regular rotation in Magistrate Court.

### Announcements

- \* The Administrative Office of the Supreme Court of Appeals of West Virginia has set the **interest rate at 7.00 percent for judgments and decrees** entered during the 2012 calendar year.
- \* **Remaining CIP Oversight Board Meetings** for 2012: 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** went into effect on January 3, 2012. To see the changes, go to the court’s website: [www.courtswwv.gov/legal-community/court-rules/Orders/2011/11-22-2011-ChildAbuseNeglect.pdf](http://www.courtswwv.gov/legal-community/court-rules/Orders/2011/11-22-2011-ChildAbuseNeglect.pdf).

## Transitions



### **Senior Status Judge Robert K. Smith dies**

Senior Status Judge Robert K Smith, 88, of Charleston, died on February 16, 2012, at Charleston Area Medical Center's General Hospital.

Judge Smith was born May 2, 1923. He was a World War II veteran; he served in the U.S. Army Air Force in forty bombing missions while onboard a B-24 aircraft in the Allied Forces India Burma Theater.

Judge Smith attended Charleston High School and was a graduate of Washington and Lee University School of Law. He shared a private law practice before being elected a domestic relations judge in 1962. In 1974 he became a Kanawha County Circuit Judge. He retired in 1986 after twenty-four years of judicial public service. After retirement, he continued to work as a judge mediator and Senior Status Judge.

Judge Smith was preceded in death by his wife Mary Elizabeth Brown Smith and his daughter, Robyn Blye Smith.

Judge Smith was a longtime member of Grace Covenant Presbyterian Church. He had many hobbies, including tennis, photography, harmonica, Civil War history, and crossword puzzles.



### **Former Supreme Court Clerk dies**

George William Singleton, 89, died on Friday, January 6, 2012, after a short illness.

A lifelong resident of Charleston, he was a 1940 graduate of Charleston High School. In 1948, after serving in the Army Air Corps during World War II, he received a law degree from the West Virginia University College of Law. After graduation, he worked as law clerk for state Supreme Court Justice Fred Fox and Justice Chauncey Browning Sr. He was appointed Clerk of the West Virginia Supreme Court of Appeals in 1969, where he served for seventeen years before retiring in 1986.

He is survived by his wife of 57 years, Helen Bragg Singleton; sons, George (Jackie) Singleton of Hong Kong, and Jeff (Paula) Singleton of northern Virginia; daughters, Ann (Jim) Kautz and Patti (Howard) Salisbury, both of Charleston; and four grandsons.

Mr. Singleton was a member of Sigma Chi Fraternity. He was an avid golfer and reader. He delivered Meals on Wheels for many years. He was an active member of Village Chapel Presbyterian Church, serving as Deacon, Elder, Trustee, and an usher for many years.

## New Magistrates

Three counties have new magistrates because the incumbents all resigned to run for sheriff of their counties.

In Brooke County, Michael Allman resigned January 20 and was replaced by Nathaniel Marino on February 1. Magistrate Allman had served as a magistrate for fifteen years. He resigned so he could file to seek the Democratic nomination for Brooke County sheriff, a position he held from 1988 to 1996. Magistrate Marino will serve the remainder of the term, which ends December 31, but is not seeking election to the post. Catherine Dillon, who served as Magistrate Allman's assistant and now Magistrate Marino's assistant, is seeking the Democratic nomination for Magistrate.

In Mingo County, Walter Crum retired January 5 and was replaced by Dallas Toler on January 6. Magistrate Crum is running for the Democratic nomination for Mingo County Sheriff and also took a job at the Southwestern Regional Day Report Center. Magistrate Toler, also a Democrat, will serve until the term ends on December 31 and is running for magistrate.

In McDowell County, Martin West retired December 31 and in January filed to seek the Democratic nomination for McDowell County Sheriff. He was replaced on January 1 by John Vance, who will serve until December 31 and is a candidate for magistrate in the Democratic primary.

## Probation officer honored by West Virginia Senate

Retiring Probation Officer Roger Beverage was honored by the West Virginia Senate on January 23 with a Resolution thanking him for his service as the top-ranking noncommissioned officer in the West Virginia Army National Guard.

Mr. Beverage, who retired from the West Virginia Supreme Court that week after serving as a probation officer for twenty-six years, was accompanied to the Senate by his father, Carl Beverage; his wife of forty-two years, Ramona Beverage, the principal at Birth River Elementary School; their daughter, Michelle Black; granddaughter, Haley Black; Retired Adjutant General Alan Tackett; and Justice Robin Davis.

Mr. Beverage retired from the National Guard in 2008 with the rank of Sergeant Major after thirty-seven years. Among his military awards is a Bronze Star.

Mr. Beverage is a graduate of Richwood High School and has a bachelor's degree from West Virginia Institute of Technology, a master's degree in correctional counseling from West Virginia University, and a master's degree in leadership studies from Marshall University.



Roger Beverage, left, with his wife, Ramona Beverage, and Retired Adjutant General Alan Tackett on January 23, 2012. Photo by Martin Valent, Legislative Photographer

## Probation News



Robert McKinney

Robert L. McKinney II is the newest member of the Division of Probation Services. Mr. McKinney will serve as Counsel for the Division with particular attention to the adult and juvenile drug courts as well as legal matters in general that affect probation.

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Stacia Roberts is the new school-based truancy probation officer for Boone County. Officer Roberts will spend eighty percent of her time inside schools in Boone County, focusing on attendance and behavior issues, according to a story in the *Coal Valley News*.

Roberts lives in Hewitt and is a 2006 graduate of Scott High School and a 2010 graduate of West Virginia State University.

Boone County Schools, the Administrative Office of the Supreme Court, and the Twenty-fifth Judicial Circuit signed a memorandum of understanding regarding the employment of a new school-based probation officer funded by the Boone County Board of Education. Roberts is that officer.

“Boone is the fourth county in the state to have a school-based probation officer,” Circuit Judge William S. Thompson told the newspaper. “Logan, Wayne, and Mercer counties have very successful results and we expect the same for Boone County.”

Judge Thompson says many of those on his criminal docket are high school dropouts.

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

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Kanawha County Chief Circuit Judge Louis H. “Duke” Bloom conducted a swearing-in ceremony on January 18 for a new probation officer for the Kanawha County Juvenile Drug Court, which is expected to open later this year.

Michelle Hanchosky will be the drug court’s probation officer. Kanawha County Family Court Judge Mike Kelly will oversee the program with Kanawha County Family Court Judge Ken Ballard assisting him.

“In family court we see the devastation that drugs do to a family and while many adults are still able to be reached with rehabilitation, I believe we see a higher rate of success with juveniles,” said Judge Kelly. “Parents come in with kids who have drug problems and are actively using drugs, and it disrupts the entire family.”

Judge Bloom said ninety percent of adult crimes committed in Kanawha County are in one way or another related to drug activity. “Catching juveniles at the early stages of drug addiction will ensure they have a bright, prosperous and fulfilling life ahead of them,” Judge Bloom said.

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Kanawha County’s Chief Circuit Judge Louis H. “Duke” Bloom delivered the oath of office to two new adult probation officers on February 1 in his courtroom.

Lilla M. Adkins of St. Albans formerly worked at the Kanawha County Day Report Center for four years. She has a bachelor’s degree from the University of Missouri. Dustin Meadows of Mount Hope formerly worked for two years as a parole officer for the Division of Corrections in Beckley. He has a bachelor’s degree and a master’s degree from Marshall University. The officers replace two people who became Sex Offender Intensive Supervision Officers.



Chief Judge Bloom swears in Michelle Hanchosky. Photo by April Harless

## Kanawha County Circuit Judge talks about judiciary at Virginia College

Kanawha County Circuit Judge Tod J. Kaufman was invited to be a judicial scholar in residence at Hampden-Sydney College in Hampden-Sydney, Virginia, in November.

Judge Kaufman was invited to speak by the Wilson Center for Leadership in Public Interest at the all-male college.

“The college classes are academic laboratories, and the students are concerned about our future and interested in the courts,” Judge Kaufman told the *West Virginia Record*.

Judge Kaufman’s lectures included the history of the courts, the involvement of third party soft money campaign committees in judicial elections, recusal questions, what judges can say in judicial elections, and the process of the appointed system in today’s political climate.



Kanawha Circuit Judge Tod Kaufman, left, poses with Dr. Christopher Howard, President of Hampden-Sydney College in November 2011. Photo by Drew Prehmus, Hampden-Sydney College

## Supreme Court leaves in place financial guidelines for indigent filing in civil cases

The Supreme Court of Appeals of West Virginia has issued an order signed by Chief Justice Menis Ketchum leaving in place the financial guidelines for indigent filing in civil cases for calendar year 2012 that were set July 1, 2011. The Court based its decision on the fact that federal poverty guidelines have not changed since last year’s action. The next update for financial guidelines will use federal poverty guidelines in effect on January 1, 2013.

## Courthouse Renovations

### Cabell County Courthouse

Several renovation projects are under way at the Cabell County Courthouse, largely due to the diligent work of county maintenance employees.

The former kitchen and snack bar in the basement has been turned into a new juvenile courtroom. A juvenile referee office on the first floor is now the sheriff's law enforcement division office, while another section of the juvenile referee office is being turned into the new probate office.

The previous law enforcement division was too small, not properly secure, and was not handicapped accessible. The probate office handles estates and wills and had only two cubicles, which didn't provide much privacy, County Manager Chris Tatum told *The Huntington Herald-Dispatch*. County workers also are renovating the old law enforcement office.

Because the work was done in-house, it has cost only about \$10,000 for paint, carpeting and other materials, Tatum told the newspaper.

The former regional law library is being turned into a fourth circuit courtroom. That project will cost about \$300,000. Of that, about \$100,000 is for technology, and that portion of the cost will be paid by the Supreme Court.

### Jefferson County Courthouse

Restoration is progressing on the bases of four columns holding up the cupola and clock tower of the Jefferson County Courthouse. Bricks had crumbled or turned to powder inside the heavy metal boots wrapped around the bottom of the columns.

Bill Polk, director of maintenance, said the work should be finished in time for the Supreme Court's March 27 visit to the courthouse for the LAWS program. The Court will hear an argument docket there that day for high school students from the Twenty-Third Judicial Circuit.

The columns were built when the courthouse was expanded 140 years ago, according to a story in *The Hagerstown Herald-Mail*. The interior of each column is filled with layers of bricks. Bricks on the bottom apparently were damaged by water from huge boxwoods that grew on both sides of the courthouse's front entrance. The boxwoods were removed when the restoration work began.

The columns were never in danger of collapsing, Polk told the Jefferson County Commission in December. All four columns have sunk slightly, the eastern-most one about three-fourths of an inch. A contractor's crews have replaced all the bad bricks and a "skin" of concrete has been wrapped around the repaired bricks. The final step will be replacing the metal boots, Polk told the newspaper. Later this spring, all four columns will be wrapped bottom to top with a strong fiber-type covering to strengthen and protect them.

The cost of the work thus far is estimated at \$350,000, of which \$85,000 will come from grants, Polk said. The next project will be rebuilding the cupola and clock tower, which is expected to cost about \$1.8 million.



Maintenance workers Kevin McCoy, left, and Randy Wintz work on renovating the Cabell County Courthouse on February 16. Photo by Lori Wolfe, *The Herald-Dispatch*

## Free Tax Prep Offered by State Law Library

The State Law Library, in cooperation with the Central West Virginia Volunteer Income Tax Assistance (VITA) program, is offering free income tax preparation for low- to middle- income tax payers who meet certain criteria.

This year a new program called FAST (Free Assisted Self-Service Tax) is available. The program allows the taxpayer to prepare his or her own federal and state tax returns for free. All that is required is an email address and basic computer skills. TaxSlayer is available free online to taxpayers who meet the following guidelines: age 25 or younger with an AGI of \$57,000 or less, or Earned Income Credit (EITC) eligible. TaxSlayer is available in the Library during regular hours Monday through Thursday, 8:30 a.m. to 7 p.m.; Fridays, 8:30 a.m. to 5 p.m.; and Saturdays, 10 a.m. to 3 p.m.

Those taxpayers who do not qualify for FAST may still have their taxes done for free if their income is less than \$49,000 per year. Certified IRS-trained Library staff members will prepare returns by appointment only. Patrons may call the State Law Library at (304) 558-2607 to make an appointment. Appointments are available now through April 14.

The program is limited to simple tax returns. Persons who needs assistance with more complicated forms such as Schedule C (profit and loss from business); Schedule D (capital gains and losses); Form 2106 (employee business expenses); or Form 3903 (moving expenses) will be referred to another agency.

The State Law Library is located in the east wing of the State Capitol Room E-404. Metered parking is available near the Culture Center off the Greenbrier Street entrance to the complex.

The following is a checklist of documents to bring to the appointment:

- ▶ Proof of identification (driver's license, West Virginia state ID card, etc.)
- ▶ Social Security cards for you, your spouse, and dependents you are claiming
- ▶ Birth dates for self, spouse, and dependents you are claiming
- ▶ W-2, W-2G, 1099-R wage and earnings statement(s) from all employers
- ▶ Interest and dividend statements from banks (Forms 1099)
- ▶ Receipts for 2011 property taxes (if applicable)
- ▶ Receipts for 2011 charitable donations (if applicable)
- ▶ Receipts for 2011 medical deductions (if applicable)
- ▶ Receipts for 2011 student loan interest payments (if applicable)
- ▶ Student tuition payment statement (if applicable)
- ▶ Receipts for total paid to daycare provider and the provider's tax ID number (the provider's Social Security Number or business Employer Identification Number)
- ▶ Married filing jointly taxpayers must **both** be present to sign documents
- ▶ Bank account number and bank routing number for direct deposit

## PEIA OPEN ENROLLMENT AND PREMIUM DISCOUNTS

The annual Open Enrollment season is approaching and will be held April 1 –April 30, 2012. PEIA is sponsoring Employee Benefit Fairs prior to Open Enrollment which may be helpful for you to attend if you have any questions. The actual dates for the Benefit Fairs will be published in the new PEIA Shoppers Guide for Plan Year 2013 and mailed to your home address sometime in March.

PEIA continues to offer the three health insurance premium discounts which include:

1-Living Will/Advance Directive \$4.00\*

2-Improve Your Score \$10.00\*

3-Tobacco Affidavit \$25.00 or \$50.00\*

If you are certain your premium reflects the applicable discounts, no further action is required. If you are unsure or want to apply for discounts, go online to [www.wvpeia.com](http://www.wvpeia.com), click on the upper right green button **Manage My Benefits** and register as a policyholder. If you have already registered, you will still need to go through the Manage My Benefits button and sign on with your password. Don't worry if you've forgotten your password, you'll be able to establish a new password and access your information. Click on the Premium Discount button to view or apply for discounts. To receive 1-Living Will/Advance Directive discount you will have to go through the Manage My Benefits button to validate that you have executed and have in your possession a Living Will/Advance Directive. If you download 2-Improve Your Score and 3-the Tobacco Affidavit form, **please pay close attention to where you should return the forms after completion.**

\*Refer to your current Shoppers Guide, pages 22 and 23

### Legislative Session

Below is a list of bills that passed during the legislative session that ended March 10 that may be of interest to employees of the West Virginia Judicial System. Abstracts have not yet been prepared, but will run in the next Amicus. The text of each bill is available on the Legislature's website at [http://www.legis.state.wv.us/Bill\\_Status/bill\\_status.cfm](http://www.legis.state.wv.us/Bill_Status/bill_status.cfm).

**SB 51:** Denying certain spousal support upon DNA evidence of adultery

**SB 100:** Relating to fees collected by circuit court clerks

**SB 161:** Relating to mandatory reporting of child abuse and neglect

**SB 331:** Providing certain persons residing with crime victims prosecutorial notification and right to be heard at sentencing and parole proceedings

*(continued)*

SB 353: Relating generally to possession of firearms

SB 382: Relating to sex offender registration

SB 385: Expanding definition of "computer" in commission of certain crimes

SB 408: Creating criminal offense for intentional defacement of public and private property

SB 418: Relating to qualifications of Parole Board members

SB 437: Relating generally to substance abuse

SB 471: Authorizing Supreme Court establish mental hygiene commissioners' compensation

SB 484: Relating generally to child welfare

SB 498: Relating to records of abuse, neglect, or exploitation of vulnerable adults

SB 507: Relating to voluntary and involuntary hospitalization of mentally ill persons

SB 547: Relating to certain criminal conviction expungement

SB 566: Relating to contracts with nonprofit and charitable entities for inmate work-release and transitional housing; court-ordered direct placement

SB 596: Prohibiting child erotica

SB 606: Relating to property forfeiture related to child pornography arrests and computer crimes

SB 611: Developing special community-based pilot demonstration project to improve at-risk youth outcomes

SB 618: Relating to municipal and magistrate courts' notification to DMV of violator's failure to pay or appear

HB 2521: Eliminating the requirement of serving domestic violence orders by certified mail

HB 3128: Relating to filing a civil petition for expunging records relating to an arrest

HB 4053: Relating to abduction, kidnapping, and human trafficking

HB 4130: Creating the felony criminal offense of sale or purchase of a child

HB 4291: Relating to county law libraries established by the Supreme Court of Appeals

HB 4307: Clarifying that the practice and procedure for domestic violence civil proceedings are governed by court rule

HB 4314: Relating to the appointment of magistrates

HB 4451: Ensuring that county executive committees have control of designating the persons who serve as ballot commissioner

HB 4481: Relating to the Comprehensive Behavioral Health Commission

HB 4521: Permitting the restructuring of child support payments of an inmate who is released under certain circumstances

HB 4522: Providing additional contempt powers for family court judges

HB 4523: Relating to the Bureau for Child Support enforcement and reporting employment and income of an independent contractor

HB 4648: Implementing a domestic violence court pilot project