

JUDGE GARY E. BAIR (RET.)
OF COUNSEL
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EMPLOYMENT

Associate Judge, Circuit Court for Montgomery County, Maryland (2012-2020).

Presided over criminal, juvenile, civil, and family law cases, hearings, and trials.

Member of the State Advisory Board for Juvenile Services (2014-2020).

Vice-Chair of Montgomery County Mental Health Court Planning and Implementation Task Force, 2015-16.

Chair of the Criminal Law Subcommittee of Legislative Committee, Judicial Council (2015-17).

Co-presided Mental Health Court (2016-2020).

Special assignment to the Court of Special Appeals: authored 12 opinions, including two reported opinions.

Partner, Bennett & Bair, LLC, Greenbelt, Maryland (2004-2012).

Appellate litigation in the Maryland state appellate courts and the United States Court of Appeals for the Fourth Circuit.

Post-conviction work in Maryland state courts, and in actions brought under 28 U.S.C. §§ 2254 and 2255 in the United States District Court.

Post-trial work, including reconsideration of sentence, motions to correct illegal sentences, and petitions for writs of actual innocence and coram nobis petitions.

Provided expert testimony in the Circuit Court for Montgomery County and the Circuit Court for Howard County and was retained by the Office of Bar Counsel of the District of Columbia as an expert, to review Bar Counsel's files on a Maryland lawyer and offer an opinion on the attorney's post-conviction practice.

Office of the Attorney General of Maryland, Baltimore, Maryland (1983-2004).

Assistant Attorney General, Medicaid Fraud Control Unit (1983-1984): handled cases from grand jury investigations through trials and appeals.

Chief of the Medicaid Fraud Control Unit (1984-1987): prosecuted white collar Medicaid provider fraud, litigated major cases, made policy decisions in all investigations.

Chief of the Criminal Appeals Division (1987-2002): appellate litigation in the Maryland appellate courts and the United States Supreme Court, and federal habeas corpus litigation in the United States District Court for the District of Maryland and the United States Court of Appeals for the Fourth Circuit; supervisor of a staff of 15 full-time and part-time Assistant Attorneys General, five administrative assistants, and three law clerks.

Solicitor General for the Criminal Appeals Division (2002-2004): argued two cases in the United States Supreme Court: *Wiggins v. State*, 539 U.S. 510 (2003), and *Maryland v. Pringle*, 540 U.S. 366 (2003).

American University Washington College of Law, Washington, D.C. (1980-1982).

Director, Criminal Justice Clinic and Adjunct Professor of Law (1980-1982): Directed Criminal Justice Clinic; taught Evidence, Criminal Procedure, and Legal Methods; co-chaired the death penalty trial of Jack Jones (Stephanie Roper case).

Supervising attorney, Criminal Justice Clinic (1977-1979): supervised students in court; taught interviewing, counseling, negotiation, and trial advocacy; handled felony trial work in Montgomery County and Prince George's Counties.

Assistant Public Defender, Maryland Office of the Public Defender, Upper Marlboro, Maryland (1979-1980).

Represented hundreds of clients for misdemeanors and felonies.

Handled bench trials and jury trials.

Law clerk to the Honorable J. Dudley Digges, Court of Appeals of Maryland (1976-1977).

EDUCATION

Georgetown University Law Center Washington, D.C. 1973-1976, J.D. May 1976.

Georgetown Law Journal (selected on basis of top 7% of first year class). Staff member, 1974-1975; third year editor, 1975-1976.

Research assistant, Professor Chester J. Antieau (1974-1975). Worked on revisions and supplements to several of Professor Antieau's books, including *Local Government Law*, *Modern Constitutional Law*, and *Federal Civil Rights Acts-Civil Practice*.

Tulane University New Orleans, Louisiana 1968-1972, B.A., English, awarded May 1972.

(*cum laude*, Phi Beta Kappa)

TEACHING

LAW SCHOOL COURSES

American University Washington College of Law:

Criminal Procedure II (1989-2014)

Criminal Procedure I (1981; 1998-2017)

Evidence (Summer 1981; Spring 1982; Summer 1982)

Legal Methods (1980-1981)

Criminal Justice Clinic (1977-1979; 1980-1982)

University of Baltimore School of Law:

Appellate Advocacy (1998-2006)

JUDICIAL COLLEGE OF MARYLAND. The Judicial College of Maryland (formerly Judicial Institute) coordinates and administers continuing judicial education programs required of all state judges. In connection with the half-day or full-day programs listed below, I prepared part of the written materials and presented part of the program, typically with one or two judges.

October 16, 2019: "Trial Court Opinion Writing"

April 7, 2016: "Evidence in Criminal Cases"

September 18, 2015: "Criminal Impact Cases"

April 9, 2015: "Criminal Impact Cases"
May 1, 2014: "Fourth Amendment Issues and Applications"
March 25, 2011: "Search and Seizure"
March 16, 2011: "Criminal Post Sentencing Matters"
April 20, 2010: "Confessions and Identifications"
September 23, 2009: "Fifth and Sixth Amendment Issues"
March 14, 2008: "Search and Seizure"
March 12, 2008: "Post Conviction"
September 27, 2007: "Confessions and Identifications"
October 13, 2006: "Fifth and Sixth Amendment Issues"
April 15, 2005: "Search and Seizure"
April 10, 2003: "Fifth and Sixth Amendment Issues"
March 6, 1992: "Managing the Child Abuse Trial"

BAR ADMISSIONS

Court of Appeals of Maryland, December 29, 1976.
District of Columbia Court of Appeals, August 15, 1977 (inactive).
United States Court of Appeals for the Fourth Circuit, September 14, 1977.
United States District Court for the District of Maryland, January 26, 1979.
United States District Court for the District of Columbia, May 7, 1979.
United States Court of Appeals for the District of Columbia Circuit, November 23, 1981.
United States Supreme Court, June 1, 1987.

MEMBERSHIP

Maryland State Bar Association (1977-present)

Criminal Law and Practice Section (1989-present); past Chair.
Litigation Section. Appellate Practice Committee (1998-present)
Section on Legal Education and Admissions to the Bar (1992-2000); past Chair
Standing Committee to Draft Criminal Pattern Jury Instructions (1999-2010)
Professionalism Course Instructor (1996-2005)

Additional Bar Association Memberships

American Bar Association (1978-1979)
Prince George's County Bar Association (1979-1980)
Howard County Bar Association (1989-2004)
Montgomery County Bar Association (2005-present)

ADDITIONAL MEMBERSHIP

Member, Montgomery County Bar Foundation
Member, Maryland State Bar Foundation
President Montgomery County Inns of Courts (2016-2017).
Bencher, Montgomery County Inn of Court (2010-present)
Member, Howard County Inn of Court (1991-1994)
Member, Rule Day Club (2005-2010)
Member, Serjeants Inn (2000-2012)
Howard County Sexual Assault Center (1993-1997)
Member, Board of Directors and Chair, Legislative Committee
Member, Tulane University Alumni Admission Committee (1990-1995)

AWARDS

Adjunct Teaching Award, American University, Washington College of Law (2016).
Wayne Fenton Memorial Award from the National Alliance on Mental Illness for the creation and implementation of Mental Health Court in Montgomery County, Maryland (2017).
2014 Recipient of the MSBA's Robert C. Heeney for Exemplifying the Highest Professional Standards and Achievement During His Distinguished Career.
Bar Leaders, Certificate of Recognition, Montgomery County Bar Foundation (2013).
Selected by peer ratings as Maryland and D.C. metro area "Super Lawyer" in field of criminal defense, awarded to top five percent of lawyers annually (2007-2012).
Martindale-Hubbell AV Preeminent Rated (2011).

COMMITTEES/COMMISSIONS

Member of the State Advisory Board for the Department of Juvenile Services (2014-2020).
Appointed by Court of Appeals as Member, Character Committee, State Board of Law Examiners (2004-2011).
Appointed as Member, Committee on Criminal Pattern Jury Instructions (1999-2010).
Appointed by Governor William Donald Schaefer in 1992 as Chair of the seven-member Governor's Commission on the Death Penalty to study the death penalty in Maryland.
Appointed by the General Assembly in 1991, as Member, Committee to Revise Article 27 of the Maryland Code, which was formed by the legislature to study the criminal code of Maryland and recommend revisions to various parts of it.

PUBLICATIONS

Books:

Chapter on State appellate practice, *Appellate Practice for the Maryland Lawyer* (Sandler & Levy, 2d ed. 2001).
Annual cumulative supplement to Chester J. Antieau, *Federal Civil Rights Acts--Civil Practice* (2d ed. 1980, Lawyers Cooperative Publishing Company, Rochester, New York), published annually December 1981-1993.

Law Review Articles:

Note, *The Applicability of Federal Common Law to Aviation Tort Litigation*, 63 Geo. L.J. 1083 (1975) (co-authored).
Circuits Note: 1974-1975 Term, Prisoners' Rights, 64 Geo. L.J. 509 (1975) (authored one section of annual criminal survey issue).

Newspaper Articles:

"Court of Appeals 1988 Term Opens With Full Criminal Docket" (*The Daily Record*, September 9, 1988).
"Infamous Crimes Live Forever: Impeachment by Prior Conviction" (*The Daily Record*, March 3, 1988).
"Prosecution of AIDS Carriers Raises Difficult Legal Questions" (*The Daily Record*, December 3, 1987).
"Docket Has 33 Criminal Cases for Appeal Court's '87 Term" (*The Daily Record*, September 10, 1987).
"Life Without Parole Option Added to Prosecutor's Arsenal" (*The Daily Record*, July 9, 1987).

“Child Witnesses in Criminal Trials: Live or Televised?” (*The Daily Record*, June 5, 1987).

Other Publications:

“Reflections upon Retirement from the Bench” (Newsletter, The Bar Association of Montgomery County, MD, November 2020).

Maryland Criminal Pattern Jury Instructions (1999-2010): participated in drafting and redrafting numerous pattern instructions, as one of the members of the MSBA Standing Committee on Criminal Pattern Jury instructions.

“Ten Tips for the Appellate Practitioner” (*The Barrister, Howard County Bar Association Newsletter*, February 2005; reprinted in *The Law Clerk*, the monthly publication of the MSBA Solo and Small Firm Practice Section, March 2005).

“Delays in the Execution of Death Sentences” (*The Maryland Bar Journal*, November/December 1995).

OTHER JUDICIAL CONTINUING LEGAL EDUCATION PROGRAMS

Fifth Judicial Circuit Judges Meeting, Annapolis (December 4, 1992): Presentation on recent Court of Appeals cases.

Fifth Judicial Circuit Bench Meeting, Finksburg (December 2, 1988): Presentation on “Protecting the Trial Record.”

MARYLAND INSTITUTE OF CONTINUING PROFESSIONAL EDUCATION OF LAWYERS, INC. (MICPEL)

June 30, 1994 (Baltimore): Program on 1994 legislative and judicial developments in criminal law.

April 28, 1993 (Rockville) and May 8, 1993 (Baltimore): Program Chair for criminal discovery issues program.

April 29, 1992 (Rockville) and May 9, 1992 (Baltimore): Program on current state of Double Jeopardy Law.

April 24, 1991 (Rockville) and May 4, 1991 (Baltimore): Program on "Fourth Amendment Seizures: Recent Supreme Court and Maryland Developments."

April 26, 1990 (Hyattsville) and May 5, 1990 (Baltimore): Presentation on the law of *Terry* stop and frisk.

MARYLAND STATE BAR ASSOCIATION

Annual Convention, Ocean City (June 10, 2011): Update on law of search and seizure. Annual Convention, Ocean City (June 11, 2009): Criminal appellate advocacy program. Annual Convention, Ocean City (June 12, 2008): Career development.

Annual Conference, Ocean City (June 17, 2005): "Appellate Trends, Tricks and Tips."

Professionalism Course, Baltimore, Upper Marlboro, College Park, Shady Grove (November 17, 2005; May 20, 2005; December 12, 2003; December 6, 2002; December 7, 2001; December 8, 2000; December 3, 1999; November 21, 1997; May 30, 1997; November 22, 1996): Participated as faculty member at course required of all new admittees to the Maryland Bar

Annual Convention, Ocean City (June 11, 1993): Criminal Discovery Issues program.

Mid-Winter Meeting, Baltimore (November 6, 1992): Moderator at presentation on Supreme Court and Court of Appeals criminal decisions.

Annual Convention, Ocean City (June 11, 1992): Update on United States Supreme Court decisions.

Annual Convention, Ocean City (June 7, 1991): Update on United States Supreme Court decisions.

MARYLAND STATE'S ATTORNEYS' ASSOCIATION

Training Seminar, Ellicott City (to be presented on October 28, 2011): Post-Conviction Practice.
Annual Conference, Ocean City (June 24, 1999): Lecture on recent developments in criminal law.

Annual Conference, Ocean City (June 22, 1994): Lecture on recent developments in criminal law.

Annual Conference, Ocean City (June 22, 1993): Lecture on recent developments in criminal law.

Annual Conference, Ocean City (June 25, 1992): Lecture on recent developments in criminal law and procedure.

Mid-Winter Conference, Wisp Conference Center, McHenry (January 14, 1992): Lecture entitled "The Meteoric Rise (and Fall?) of *Grady v. Corbin*."

Annual Conference, Ocean City (June 24-26, 1991): Lecture on recent developments in criminal law and procedure.

Annual Conference, Ocean City (June 25-28, 1989): Lecture on recent developments in criminal law.

Annual Conference, Ocean City (June 26-29, 1988): Lecture on recent developments in criminal law and procedure.

Mid-Winter Conference, Seven Springs, PA (January 24-27, 1988): Presentation on *Batson* jury selection problems.

Annual Conference, Ocean City (June 17-20, 1987): Lecture on recent developments in criminal law and procedure.

MONTGOMERY COUNTY STATE'S ATTORNEY'S OFFICE

Presentation on recent Maryland decisions (March 31, 1993). Presentation on recent developments in criminal law (February 5, 1992).

Presentation on recent developments in criminal law (November 7, 1990).

COUNTY BAR PROGRAMS

Worcester County Bar Association, Ocean City (to be presented on November 11, 2011): Presentation, "The Application of *Crowford v. Washington*."

Annual Alan Goldstein Lecture, sponsored by the Prince George's County Bar Association (March 28, 2009): Presentation, "Cops and Stops."

Annual Alan Goldstein Lecture, sponsored by the Prince George's County Bar Association (March 29, 2008): Presentation on preserving the trial record for appellate review.

Prince George's County Bar Association, Upper Marlboro (December 12, 2007): Presentation, "Pitfalls for Appeal."

Worcester County Bar Association, Ocean City (November 12, 2004): Presentation on Supreme Court argument in *Maryland v. Pringle*.

Annual Alan Goldstein Lecture, sponsored by the Prince George's County Bar Association (May 12, 2007): Presentation on recent developments in confession law.

Worcester County Bar Association, Ocean City (November 12, 1999): Presentation on appellate advocacy in Maryland.

Baltimore City Bar Association (November 21, 1995): Review of recent criminal law decisions.

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Participated as a moot court judge to prepare the attorney who argued for Florida in *Lambrix v. Singletary*, 520 U.S. 518 (1997).

Participated as a moot court judge to prepare the attorney who argued for Alaska in *Thompson v. Keohane*, 516 U.S. 99 (1995).

Participated as moot court judge to prepare the attorney who argued for Virginia in *Wright v. West*, 505 U.S. 277 (1992).

Participated as moot court judge to prepare the attorney who argued for Oregon in *Keeney v. Tamayo-Reyes*, 504 U.S. 1 (1992).

OFFICE OF THE ATTORNEY GENERAL

Trial Practice Training Session, University of Maryland Law School (March 21, 1990): Critique of trainee trial exercises.

Trial Advocacy Training Program, University of Baltimore School of Law (January 6, 1987): Demonstration of direct examination of witness.

LAW SCHOOL LECTURES

University of Baltimore School of Law, Baltimore (October 10, 2008): Lecture on effective brief writing and oral advocacy.

American University Washington College of Law, Washington, D.C., Appellate Clinic (August 19, 1988): Lecture entitled "Human Dimensions of Appellate Advocacy."

OTHER

Howard County Inn of Court, Columbia (September 15, 2010): Program on Fifth and Sixth Amendment issues.

J. Dudley Digges Inn of Court, Baltimore (January 21, 2010): Program on the United States Supreme Court case *Maryland v. Shatzer*.

Maryland Criminal Defense Attorneys' Association, Ellicott City (January 29, 2008): "Preserving the Record for Appeal."

Office of the Public Defender luncheon, Rockville (November 21, 2007): Program on Coram Nobis and Post Conviction.

Serjeants Inn Law Club, Baltimore (November 7, 2007), repeated at Rule Day Club, Baltimore (November 13, 2007): Presentation, "The Strange Case of Raymond Leon Adams: Are Maryland Juries Still Judges of the Law and the Facts?"

Serjeants Inn Law Club, Baltimore (February 7, 2007): Presentation, "*Cox v. Louisiana* Revisited: Is There a Right to Free Speech in Baltimore County?"

Howard County Inn of Court, Ellicott City (February 10, 2005): Panel discussion on death penalty.

Law School for the Public, Montgomery County cable television (February 8, 2005): Interviewed for a program on DNA Evidence and Databases.

Wranglers Law Club, Baltimore (November 20, 2003): Presentation on obtaining certiorari review in *Maryland v. Pringle*, briefing the case, and preparing for and arguing the case before the United States Supreme Court.

Baltimore City State's Attorney's Office (February 13, 1992): Recent criminal law developments.

Maryland Day Program, Columbia (March 25, 1991): Presentation, "On the Street and in the Stationhouse - Need You Talk to the Police?"

Baltimore City State's Attorney's Office (May 4, 1990): Lecture on recent criminal law

decisions.

Baltimore City State's Attorney's Office (May 4, 1989): Presentation on recent developments in criminal law.

Symposium on child abuse, Anne Arundel Community College (May 3, 1990): Panel presentation on the Maryland law permitting child victims to testify via closed-circuit television.

National Health Care Anti-Fraud Seminar, Orlando, Florida (November 17-19, 1986): Presentation regarding targeting of fraud by dental providers.

National Health Lawyers Association, Fraud and Abuse Conference, Washington, D.C. (November 10, 1986): Presentation on state initiatives in Medicaid fraud investigation.

Maryland Association of Certified Public Accountants, Baltimore (October 1, 1986): Lecture on Medicaid fraud investigations as they relate to accountants who work for Medicaid providers.

National Association of Medicaid Fraud Control Units, Annual Conference, Princeton, NJ. (September 22-26, 1986): Panel presentation on legal ethics in the prosecution of Medicaid fraud.