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THE WORK OF THE COURT OF APPEALS: A STATISTICAL MISCELLANY*

September 1984 Term[1]

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* Tables prepared by Cecilia Cantrill, Thomas Hoxie, and Rosamond Mandell, Assistant Editors of the *Maryland Law Review*. These tables follow the format used in Reynolds; *The Court of Appeals of Maryland: Rules, Work and Performance—Part I*, 37 MD. L. REV. 1, 40-60 (1977) (September 1975 Term); *The Work of the Court of Appeals: A Statistical Miscellany*, 39 MD. L. REV. 646 (1980) (September 1978 Term); 41 MD. L. REV. 554 (1982) (September 1980 Term); 42 MD. L. REV. 610 (1982) (September 1981 Term); 43 MD. L. REV. 863 (1983) (September 1982 Term); 44 MD. L REV. 715 (1985) (September 1983 Term). Unless otherwise noted, figures from these tables may be compared with figures in the earlier tables. Comparable figures for the September 1957 through September 1963 Terms are found in *Special Report of the Committee on Judicial Administration of the Maryland State Bar Association, reprinted in* 1 Md. App. vii, xxv-xxx (1967).

1. Throughout these tables, unless otherwise noted, the data include all published opinions of the Court of Appeals issued between January 1, 1985, and December 31, 1985, inclusive. These tables, unlike some previous tables, include per curiam opinions (excluding voluntary dismissals and writs of certiorari dismissed as improvidently granted). Separately captioned cases consolidated and disposed of by the court in a single decision are treated as separate cases in Tables IA, IB, IIA, and IIB. All other tables treat such a decision as a single case. Consolidated cases are included throughout if one of the cases consolidated was heard in the 1984 Term.

TABLE I

SOURCE OF CASES

A. PROCEDURAL SOURCE

		Number	Percentage
WRIT OF CERTIORARI			
To the Court of Special Appeals			
Decided in the Court of Special Appeals			
Reported	23		
Unreported	30		
Total		53	36.8
Expedited to Court of Appeals		31	21.5
To Circuit Courts		20	13.9
Direct Appeals from Circuit Court		11	7.6
Certified Questions from Federal Court		7	4.9
Professional Supervision		22	15.3
TOTAL		144	100.0

B. COUNTY OF ORIGIN

COUNTY	NO. OF CASES	POPULATION[2]	PCT. OF CASES	PCT. OF POPULATION
Allegany	4	80,548	3.1	1.9
Anne Arundel	7	370,775	5.5	8.8
Baltimore	14	655,615	11.0	15.5
Calvert	1	34,638	.8	.8
Caroline	1	23,143	.8	.5
Carroll	1	96,356	.8	2.3
Cecil	2	60,430	1.6	1.4
Charles	3	72,751	2.4	1.7
Dorchester	0	30,623	—	.7
Frederick	6	114,263	4.7	2.7
Garrett	0	26,498	—	.6
Harford	1	145,930	.8	3.5
Howard	4	118,572	3.1	2.8
Kent	2	16,695	1.6	.4
Montgomery	23	579,053	18.1	13.7
Prince George's	25	665,071	19.7	15.8
Queen Anne's	0	25,508	—	.6
St. Mary's	1	59,895	.8	1.4
Somerset	1	19,188	.8	.5
Talbot	0	25,604	—	.6
Washington	3	113,087	2.4	2.7
Wicomico	1	64,540	.8	1.5
Worcester	2	30,889	1.6	.7
Baltimore City	25	786,775	19.7	18.7
Total	127[3]	4,216,446	100.1	99.8

2. Population figures reflect population as of April 1, 1980. The statistics are taken from U.S. DEPARTMENT OF COMMERCE BUREAU OF THE CENSUS, VOLUME 1 CHARACTERISTICS OF THE POPULATION, CHAPTER B GENERAL POPULATION CHARACTERISTICS, PART 22 MARYLAND, PC 80-1-B22 (Aug. 1982).

3. Figure does not include 10 professional supervision cases and 7 certified questions from federal court.

TABLE II

THE COURT OF SPECIAL APPEALS IN THE COURT OF APPEALS[4]

A. OPINIONS OF THE COURT OF SPECIAL APPEALS

	Number	Percentage
Unreported		
Affirmed	9	30.0
Reversed	21	70.0
Affirmed in Part/ Reversed in Part	0	
Total	30	100.0
Reported		
Affirmed	16	69.6
Reversed	7	30.4
Affirmed in Part/ Reversed in Part	0	
Total	23	100.0
Total		
Affirmed	25	47.2
Reversed	28	52.8
Affirmed in Part/ Reversed in Part	0	
Total[5]	53	100.0

4. In these tables, a decision has been designated as "affirmed" or "reversed" if that is the label placed upon it by the Court of Appeals. The "reversed" column also includes decisions that were "modified," "vacated," or "remanded" either wholly or in part, and one decision that was remanded without reversal.

"Affirmed" and "reversed" are fairly crude labels. A decision may be "affirmed," for example, even if the reviewing court thought the grounds given by the lower court to support the decision below were completely wrong. Nevertheless, the terms serve as rough indicators of possible trends or problems.

5. Total of reported and unreported opinions in Table II does not include cases in which the Court of Appeals dismissed the writ of certiorari as improvidently granted and one case dismissed as moot because petitioner died after certiorari was granted and after oral argument.

B. REPORTED OPINIONS OF THE COURT OF SPECIAL APPEALS

	MAJORITY				CONCURRENCE				DISSENT			
	Authored		Joined		Authored		Joined		Authored		Joined	
	Aff'd	Rev'd	Aff'd	Rev'd	Aff'd	Rev'd	Aff'd	Rev'd	Aff'd	Rev'd	Aff'd	Rev'd
Adkins		2	4									
Alpert		1	2									
Bishop	3		4	1								
Bloom				3								
Garrity			1	3								
Getty	3	1	2	1								
Gilbert	2	2	3									
Karwacki			1									
Liss	3	1	3									
Lowe	1		2									
Moylan	1		3	1								
Weant	2		1	2								
Wilner	1		4	2								
Specially Assigned			2	1					1			
Total	16	7	32	13	0	0	0	0	1	0	0	0

TABLE III

ACTION OF JUDGES

JUDGE	AUTHORED[6]				JOINED		
	OPIN. OF COURT	(PCT.)[7]	CONCURRENCE	DISSENT[8]	OPIN. OF COURT	CON.	DIS.
COLE	13	(9.1)	5	3	109	1	5
COUCH	15	(10.6)	0	0	91	0	1
ELDRIDGE	15	(10.6)	4	8	105	1	5
MCAULIFFE	7	(4.9)	1	3	49	1	0
MURPHY	21	(14.8)	1	0	116	1	1
RODOWSKY	18	(12.7)	1	1	114	1	2
SMITH	21	(14.8)	0	1	113	0	1
Specially Assigned	15	(10.6)	0	1	66	0	0
PER CURIAM[9]	17	(12.0)	0	0	—	0	2
Total	142[10]	(100.1)	12	17			

6. Judges participating in a per curiam decision are listed as joining the opinion of the court. A concurrence or dissent by a judge who does not publish an opinion is treated nonetheless as a concurrence or dissent.

7. The parenthetical figures in this column are the percentages of signed opinions of the court authored by each judge.

8. Opinions designated by their authors as "Concurring in Part and Dissenting in Part" are treated in this table as dissenting opinions. Similarly, judges joining such opinions are treated as joining dissenting opinions.

9. "Per Curiam" includes per curiam opinions and orders published without a signed opinion. Dismissals of writs of certiorari as improvidently granted and voluntary dismissals are not included.

10. Cases consolidated on appeal, in which the court issued a single opinion disposing of more than one case, are treated as a single opinion in this and all subsequent tables.

TABLE IV

FREQUENCY OF SEPARATE OPINIONS

The Court	Number	Percentage
Unanimous Opinions	112	78.9
Decisions With Concurring Opinions	11	7.7
Decisions With Dissenting Opinions	18	12.7
Decisions With Both Concurring Opinions and Dissenting Opinions	0	—
Decisions Concurring in Part and Dissenting in Part	1	.7
TOTAL	142	100.0

TABLE V

JUDICIAL PERSUASIVENESS

Author of the Opinion of the Court	Unanimous Opinions		Opinions with Concurrences		Opinions with Dissents		Opinions with Both		Opinions with pt. concurrence/ pt. dissent	
Cole	12	(92.3)	1	(7.7)	0	(0.0)	0	(0.0)	0	(0.0)
Couch	11	(73.3)	2	(13.3)	2	(13.3)	0	(0.0)	0	(0.0)
Eldridge	11	(73.3)	2	(13.3)	1	(6.7)	0	(0.0)	1	(6.7)
McAuliffe	5	(71.4)	1	(14.3)	1	(14.3)	0	(0.0)	0	(0.0)
Murphy	15	(71.4)	3	(14.3)	3	(14.3)	0	(0.0)	0	(0.0)
Rodowsky	15	(83.3)	0	(0.0)	3	(16.7)	0	(0.0)	0	(0.0)
Smith	19	(90.5)	0	(0.0)	2	(9.5)	0	(0.0)	0	(0.0)
Specially Assigned	10	(66.7)	2	(13.3)	3	(20.0)	0	(0.0)	0	(0.0)
Per Curiam	14	(82.4)	0	(0.0)	3	(17.6)	0	(0.0)	0	(0.0)

TABLE VI

VOTING ALIGNMENT
(Figures are Percentages)

A. ALL CASES[11]

		COUCH	ELDRIDGE	MCAULIFFE	MURPHY	RODOWSKY	SMITH	SPECIALLY ASSIGNED
Cole	M	62.0	75.4	35.9	81.0	80.3	83.1	47.2
	S	—	4.9	.7	—	.7	.7	—
	R	3.5	4.9	2.8	5.6	5.6	4.2	4.2
	D	4.9	7.7	3.5	7.0	7.7	6.3	6.3
Couch	M		62.0	28.9	71.1	69.7	71.8	33.8
	S		.7	.7	—	.7	.7	—
	R		3.5	.7	.7	.7	—	—
	D		4.9	1.4	1.4	1.4	—	.7
Eldridge	M			33.8	80.3	80.3	83.1	45.8
	S			1.4	—	.7	.7	—
	R			3.5	4.2	4.2	4.2	2.1
	D			4.9	9.9	9.2	8.5	7.0
McAuliffe	M				39.4	37.3	37.3	10.6
	S				.7	.7	—	.7
	R				2.1	2.8	2.8	1.4
	D				1.4	1.4	2.1	1.4
Murphy	M					92.3	92.3	55.6
	S					.7	—	—
	R					1.4	.7	—
	D					1.4	2.1	1.4
Rodowsky	M						92.3	53.5
	S						.7	—
	R						.7	.7
	D						1.4	2.1
Smith	M							55.6
	S							—
	R							—
	D							1.4

11. Key: M—The two judges joined in the *majority opinion*. One may have authored it.
S—The two judges joined in a separate opinion, either a concurrence or a dissent. One may have authored it.
R—The two judges joined in the result, but in different opinions.
D—The two judges *disagreed* in the result.

This table includes all cases, whether signed opinion or per curiam (except voluntary dissmissals and writs of certiorari dismissed as improvidently granted). Percentages vary not only because of agreement and disagreement between the judges, but also because of the number of cases each judge heard. For example, Judge McAuliffe heard approximately 50 cases, while Judge Couch heard approximately 90 cases.

TABLE VI (continued)

B. MOST ALIGNED—LEAST ALIGNED[12]

Most Aligned	M/S/R	D
Murphy/Rodowsky	94.4	5.6
Rodowsky/Smith	93.7	6.3
Murphy/Smith	93.0	7.0
Eldridge/Smith	88.0	12.0
Cole/Smith	88.0	12.0
Least Aligned		
Cole/Couch	65.5	34.5
Couch/Eldridge	66.2	33.8
Couch/Rodowsky	71.1	28.9
Couch/Murphy	71.8	28.2
Couch/Smith	72.5	27.5

C. SWING VOTES

Number of Swing Votes[13]	
Cole	1
Couch	1
Eldridge	1
McAuliffe	2
Murphy	3
Rodowsky	2
Smith	1
Specially Assigned	1
Voting Combinations in Swing Vote Opinions	
Eldridge, McAuliffe, Murphy, Specially Assigned	1
Murphy, Cole, Rodowsky, McAuliffe	1
Murphy, Smith, Rodowsky, Couch	1

12. Figures used in this table are from Table VI.A. The "Most Aligned" table presents the five most aligned pairs of judges; the pairs are arranged in descending order according to the combined "M," "S," and "R" percentages. Conversely, the "Least Aligned" table presents the five least aligned pairs.

13. A "swing vote" is cast by each judge in the majority in a 4-3 case.

TABLE VII

PRIMARY SUBJECT MATTER OF OPINIONS

	Number of Opinions
A. Public Law	
Criminal	
Constitutional Issues (federal and/or state)	11
Evidentiary	2
Procedural (non-constitutional)	14
Substantive	16
Civil	
Administrative	7
Antitrust	0
Constitutional	
Federal	1
State	2
Consumer Law	1
Health Care	2
Municipal Law	0
Real Property	
Eminent Domain	1
Zoning	0
Taxation	3
Other	5
B. Private Law	
Procedural	
Appellate	3
Pre-Trial and Trial	5
Substantive	
Commercial	3
Contracts	2
Corporations	1
Custody/Domestic Relations	7
Insurance	7
Labor (including unemployment and worker's compensation)	6
Property (not including eminent domain and zoning)	7
Torts	11
Wills/Estates/Trusts	2
Other	0
	119
C. Professional Questions	
Reinstatement	1
Discipline	15
Admission to Bar	5
	21