Maryland Law Review

Volume 47 | Issue 3 Article 8

The Work of the Court of Appeals: a Statistical Miscellany - July 1, 1986 Through June 30, 1987

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The Work of the Court of Appeals: a Statistical Miscellany - July 1, 1986 Through June 30, 1987, 47 Md. L. Rev. 1036 (1988)
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THE WORK OF THE COURT OF APPEALS: A STATISTICAL MISCELLANY*

July 1, 1986 through June 30, 1987[1]

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* Tables prepared by Michael Gentile, Assistant Editor 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) (Sept. 1975 Term); *The Work of the Court of Appeals: A Statistical Miscellany*, 39 MD. L. REV. 646 (1980) (Sept. 1978 Term); 41 MD. L. REV. 554 (1982) (Sept. 1980 Term); 42 MD. L. REV. 610 (1982) (Sept. 1981 Term); 43 MD. L. REV. 863 (1983) (Sept. 1982 Term); 44 MD. L. REV. 715 (1985) (Sept. 1983 Term); 45 MD. L. REV. 1071 (1986) (Sept. 1984 Term); 46 MD. L. REV. 891 (July 1, 1985 through June 30, 1986). Prior to last year, data were compiled on a calendar year basis. Beginning last year, and continuing this year, the data coincide approximately with the decisions reviewed in the *Survey of Maryland Law*. Unless otherwise noted, figures from these tables may be compared to 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 July 1, 1986, and June 30, 1987, 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 between July 1, 1986 and June 30, 1987.

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	47		
Unreported	42		
Total		89	47.6
Expedited to Court of Appeals		45	24.1
To Circuit Courts		5	2.7
DIRECT APPEALS FROM CIRCUIT COURT		5	2.7
CERTIFIED QUESTIONS FROM FEDERAL COURT		3	1.6
CERTIFIED QUESTIONS FROM COURT OF SPECIAL APPEALS		1	.6
PROFESSIONAL SUPERVISION		37	19.8
REMAND FROM SUPREME COURT		1	.5
ON MOTION FOR RECONSIDERATION		1	.5
TOTAL		187	100.1[2]

2. Throughout these tables, rounding of numbers may result in totals slightly greater or lesser than 100 percent.

B. COUNTY OF ORIGIN

COUNTY	NO. OF CASES	POPULATION[3]	PCT. OF CASES	PCT. OF POPULATION
Allegany	2	80,548	1.2	1.9
Anne Arundel	10	370,775	5.9	8.8
Baltimore	21	655,615	12.4	15.5
Calvert	4	34,638	2.4	.8
Caroline	0	23,143	—	.5
Carroll	3	96,356	1.8	2.3
Cecil	3	60,430	1.8	1.4
Charles	1	72,751	.6	1.7
Dorchester	0	30,623	—	.7
Frederick	3	114,263	1.8	2.7
Garrett	1	26,498	.6	.6
Harford	3	145,930	1.8	3.5
Howard	2	118,572	1.2	2.8
Kent	2	16,695	1.2	.4
Montgomery	29	579,053	17.1	13.7
Prince George's	28	665,071	16.5	15.8
Queen Anne's	2	25,508	1.2	.6
St. Mary's	1	59,895	.6	1.4
Somerset	0	19,188	—	.5
Talbot	0	25,604	—	.6
Washington	1	113,086	.6	2.7
Wicomico	1	64,540	.6	1.5
Worcester	2	30,889	1.2	.7
Baltimore City	51	786,775	30.0	18.7
TOTAL	170[4]	4,216,446	100.5	99.8

3. Population figures reflect population as of April 1, 1980. The statistics are taken from BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, VOLUME 1 CHARACTERISTICS OF THE POPULATION, CHAPTER B GENERAL POPULATION CHARACTERISTICS, PART 22 MARYLAND, PC 80-1-B22 (Aug. 1982).

4. Figure does not include 15 professional supervision cases or 3 questions certified from federal court.

TABLE II

THE COURT OF SPECIAL APPEALS IN THE COURT OF APPEALS[5]

A. OPINIONS OF THE COURT OF SPECIAL APPEALS

	Number	Percentage
Unreported		
Affirmed	9	21.4
Reversed	29	69.0
Affirmed in Part/ Reversed in Part	4	9.5
Total	42	99.9
Reported		
Affirmed	23	48.9
Reversed	20	42.6
Affirmed in Part/ Reversed in Part	4	8.5
Total	47	100.0
Total		
Affirmed	32	36.0
Reversed	49	55.1
Affirmed in Part/ Reversed in Part	8	9.0
Total[6]	89	100.1

5. 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.

"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.

6. 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.

B. REPORTED OPINIONS OF THE COURT OF SPECIAL APPEALS[7]

	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	1	2	5	3								
Alpert	3	4	4	3								
Bell, R.B.	1	1	3	2					1			
Bell, R.M.	0	3	2	1	1							
Bishop	1	2	3	4								
Bloom	0	2	3	5								
Garrity	3	0	4	6								
Getty	2	0	2	2						1		
Gilbert	3	3	2	0								
Karwacki	2	1	2	4								
Lowe	0	0	0	1								
Menchine	2	0	0	0								
Morton	1	0	1	2								
Moylan	1	1	2	2								
Weant	1	1	8	4								
Wilner	1	3	3	3	1							
Wenner	1	1	1	3								
Total	23	24	45	45	2	0	0	0	1	1	0	0

7. *See supra* note 5. The "Reversed" column includes four decisions that were "Affirmed in Part and Reversed in Part" and decisions that were "Vacated and Remanded."

TABLE III

ACTION OF JUDGES[8]

JUDGE	AUTHORED				JOINED[9]		
	OPIN. OF COURT	(PCT.)[10]	CONCURRENCE	DISSENT[11]	OPIN. OF COURT	CON.	DIS.
ADKINS	20	(10.7)	—	2	35	—	1
COLE	12	(6.4)	3	5	125	1	4
COUCH	23	(12.3)	1	—	125	—	—
ELDRIDGE	14	(7.5)	2	6	125	—	2
MCAULIFFE	11	(5.9)	5	5	120	—	4
MURPHY	24	(12.8)	2	1	103	—	4
RODOWSKY	22	(11.8)	1	3	122	—	2
SMITH	15	(8.0)	—	—	71	—	—
Per Curiam[12]	35	(18.7)	—	—	—	—	—
Specially Assigned	11	(5.9)	—	—	25	1	—
Total	187[13]	(100.0)	14	22	851	2	17

8. Judge Smith retired from the bench on August 10, 1986. Judge Adkins joined the court on August 15, 1986. Judge Couch retired May 30, 1987.

9. 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.

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

11. Opinions designated by their authors as "Concurring in Part and Dissenting in Part" are treated as joining dissenting opinions.

12. "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.

13. 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	155	82.9
Decisions With Concurring Opinions	9	4.8
Decisions With Dissenting Opinions	16	8.6
Decisions With Both Concurring Opinions and Dissenting Opinions	4	2.1
Decisions Concurring in Part and Dissenting in Part	3	1.6
	187	100.0

TABLE V

JUDICIAL PERSUASIVENESS

Author of the Opinion of the Court	Unanimous Opinions		Opinions with Concurrences		Opinions with Dissent(s)		Opinions with Both		Opinions with pt. concurrence/ pt. dissent	
Adkins	16	(80.0)	1	(5.0)	3	(15.0)	0	(0.0)	0	(0.0)
Cole	10	(83.3)	2	(16.7)	0	(0.0)	0	(0.0)	0	(0.0)
Couch	18	(78.3)	3	(13.0)	2	(8.7)	0	(0.0)	0	(0.0)
Eldridge	10	(71.4)	0	(0.0)	1	(7.1)	1	(7.1)	2	(14.3)
McAuliffe	11	(100.0)	0	(0.0)	0	(0.0)	0	(0.0)	0	(0.0)
Murphy	20	(83.3)	0	(0.0)	2	(8.3)	1	(4.2)	1	(4.2)
Rodowsky	19	(86.4)	0	(0.0)	2	(9.1)	1	(4.5)	0	(0.0)
Smith	13	(86.7)	1	(6.7)	1	(6.7)	0	(0.0)	0	(0.0)
Per Curiam	32	(91.4)	0	(0.0)	3	(8.6)	0	(0.0)	0	(0.0)
Specially Assigned	6	(54.5)	2	(18.2)	2	(18.2)	1	(9.1)	0	(0.0)

TABLE VI

VOTING ALIGNMENT
(Figures are Percentages)

A. ALL CASES[14]

		COLE	COUCH	ELDRIDGE	MCAULIFFE	MURPHY	RODOWSKY	SMITH
Adkins	M	92.8	97.4	94.9	90.2	94.9	93.8	100.0
	S	2.4	—	2.5	1.2	—	—	—
	R	—	—	1.3	2.4	—	—	—
	D	4.8	2.6	1.3	6.1	5.1	6.2	—
Cole	M		91.2	90.2	86.2	89.7	89.4	90.0
	S		—	3.4	.6	—	.6	—
	R		2.9	2.9	3.4	1.8	2.2	4.4
	D		5.8	3.4	9.8	8.5	7.7	5.6
Couch	M			93.9	90.3	94.8	95.3	98.6
	S			.6	—	—	—	—
	R			.6	3.6	1.9	1.2	1.2
	D			4.9	6.1	3.2	3.5	—
Eldridge	M				86.7	90.0	91.4	93.1
	S				.6	—	.6	—
	R				3.0	1.9	1.7	2.3
	D				9.6	8.1	6.3	4.6
McAuliffe	M					92.3	89.6	92.9
	S					2.5	1.8	3.6
	R					1.9	3.5	3.6
	D					3.2	5.2	—
Murphy	M						93.2	96.1
	S						1.8	—
	R						1.8	2.6
	D						3.0	1.2
Rodowsky	M							96.7
	S							—
	R							1.1
	D							2.2
Specially Assigned	M	79.4	96.6	93.1	75.9	81.2	90.7	95.2
	S	—	—	—	—	6.3	—	—
	R	14.7	3.4	6.9	10.3	—	3.1	4.8
	D	5.9	—	—	13.8	12.5	6.3	—

14. 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 dismissals, writs of certiorari dismissed as improvidently granted, and three orders that failed to mention the issuing judges).

TABLE VI (continued)

B. MOST ALIGNED—LEAST ALIGNED[15]

Most Aligned	M/S/R	D
Smith/Couch	100.0	—
Smith/McAuliffe	100.0	—
Adkins/Eldridge	98.7	1.3
Smith/Murphy	98.7	1.3
Smith/Rodowsky	97.8	2.2
Least Aligned		
Cole/McAuliffe	90.2	9.8
Eldridge/McAuliffe	90.4	9.6
Cole/Murphy	91.6	8.5
Eldridge/Murphy	91.9	8.1
Cole/Rodowsky	92.2	7.8

C. SWING VOTES

Number of Swing Votes[16]	
Adkins	2
Cole	4
Couch	7
Eldridge	3
McAuliffe	3
Murphy	4
Rodowsky	3
Smith	1
Specially Assigned	1
Voting Combinations in Swing Vote Opinions	
Couch, Murphy, Rodowsky, McAuliffe	2
Couch, Cole, Eldridge, Smith	1
Couch, Cole, Eldridge, Orth	1
Couch, Cole, Eldridge, Adkins	1
Couch, Cole, Murphy, Rodowsky	1
Couch, Murphy, McAuliffe, Adkins	1

15. 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. See *supra*, note 14. Conversely, the "Least Aligned" table presents the five least aligned pairs. These figures do not include specially assigned judges. Also, they do not include the Adkins/Smith alignment as those judges heard only two cases together.

16. 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)	15
	Evidentiary	6
	Procedural (non-Constitutional)	11
	Substantive	17
	Civil	
	Administrative	6
	Antitrust	0
	Constitutional	
	Federal	3
	State	2
	Consumer Law	2
	Health Care	2
	Municipal Law	9
	Real Property	
	Eminent Domain	2
	Zoning	5
	Taxation	5
B.	Private Law	
	Procedural	
	Appellate	4
	Pre-Trial and Trial	5
	Substantive	
	Commercial	5
	Contracts	5
	Corporations	1
	Custody/Domestic Relations	5
	Insurance	4
	Labor (including unemployment and workers' compensation)	7
	Property	3
	Torts	8
	Wills/Estates/Trusts	4
C.	Miscellaneous	13
		149
D.	Professional Questions	
	Reinstatement	1
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Survey Table of Cases

Maryland cases from the period June 1986 to June 1987 that are discussed in the *Survey* are indexed below.

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