

The Work of the Court of Appeals: a Statistical Miscellany

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mlr>



Part of the [Courts Commons](#)

Recommended Citation

The Work of the Court of Appeals: a Statistical Miscellany, 43 Md. L. Rev. 863 (1984)

Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol43/iss4/5>

This Casenotes and Comments is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.

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

September 1982 Term¹

Table I:	Source of Cases
	A. Procedural Source
	B. County of Origin
Table II:	The Court of Special Appeals In The Court of Appeals
	A. Opinions of The Court of Special Appeals
	B. Reported Opinions of The Court of Special Appeals
Table III:	Action of Judges
Table IV:	Frequency of Separate Opinions
Table V:	Judicial Persuasiveness
Table VI:	Voting Alignment
	A. All Cases
	B. Most Aligned—Least Aligned
	C. Swing Votes
Table VII:	Primary Subject Matter of Opinions

*Tables prepared by Daniel Ryan and Michael Stein, 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); *The Work of The Court of Appeals: A Statistical Miscellany*, 41 MD. L. REV. 554 (1982) (September 1980 Term); and *The Work of the Court of Appeals: A Statistical Miscellany*, 42 MD. L. REV. 610 (1983) (September 1981 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 of Maryland decided between September 1, 1982 and August 31, 1983, inclusive. These tables, unlike some previous tables, include per curiam opinions and orders (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.

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	25	
Unreported ²	<u>21</u>	
Total	46	32.6
Expedited to Court of Appeals	62	44.0
To Circuit Courts	5	3.5
DIRECT APPEALS FROM CIRCUIT COURT	7	5.0
CERTIFIED QUESTIONS FROM FEDERAL COURT	3	2.1
PROFESSIONAL SUPERVISION	<u>18</u>	<u>12.8</u>
	<u>141</u>	<u>100.0</u>

2. The practice of rendering unreported opinions is discussed in Note, *In Re Randolph T. and In Re Bobby C.—The Standard of Proof in a Juvenile Waiver Hearing and the Problem of Unreported Opinions*, 41 MD. L. REV. 169, 177-79 (1981).

B. COUNTY OF ORIGIN³

COUNTY	NO. OF CASES	POPULATION ⁴	PCT. OF CASES	PCT. OF POPULATION
Allegany	2	80,548	1.7	1.9
Anne Arundel	12	370,775	10.0	8.8
Baltimore	11	655,615	9.2	15.5
Calvert	1	34,638	0.8	0.8
Caroline	1	23,143	0.8	0.5
Carroll	1	96,356	0.8	2.3
Cecil	0	60,430	0.0	1.4
Charles	2	72,751	1.7	1.7
Dorchester	0	30,623	0.0	0.7
Frederick	0	114,263	0.0	2.7
Garrett	1	26,498	0.8	0.6
Harford	1	145,930	0.8	3.5
Howard	0	118,572	0.0	2.8
Kent	1	16,695	0.8	0.4
Montgomery	19	579,053	15.8	13.7
Prince George's	11	665,071	9.2	15.8
Queen Anne's	0	25,508	0.0	0.6
St. Mary's	2	59,895	1.7	0.5
Talbot	1	25,604	0.8	0.6
Washington	8	113,086	6.7	2.7
Wicomico	0	64,540	0.0	1.5
Worcester	0	30,889	0.0	0.7
Baltimore City	46	786,775	38.4	18.7
Total	120 ⁵	4,216,446	100.0	99.8*

* Slight discrepancy in total percentage in this table is caused by rounding.

3. Each separately captioned case below is counted twice. See *supra* note 1.

4. Population figures reflect population as of April 1, 1980. The statistics are taken from U.S. BUREAU OF THE CENSUS, 1980 CENSUS OF POPULATION AND HOUSING—FINAL POPULATION AND HOUSING UNIT COUNTS—PHC 80-V-22 MARYLAND (1981), reported in MARYLAND CENTER FOR HEALTH STATISTICS, ADVANCE REPORT—MARYLAND POPULATION ESTIMATED, JULY 1, 1979 AND JULY 1, 1980 AND PROJECTIONS TO 1986 WITH MARYLAND POPULATION AT THE 1970 AND 1980 U.S. CENSUSES (1981).

5. Not included in the total are eighteen professional supervision cases and three questions certified to the Court of Appeals by the United States District Court for the District of Maryland.

TABLE II
THE COURT OF SPECIAL APPEALS IN
THE COURT OF APPEALS⁶

A. OPINIONS OF THE COURT OF SPECIAL APPEALS

Unreported	Number	Percentage
Affirmed	6	28.6
Reversed	<u>15</u>	<u>71.4</u>
Total	21	100.0
Reported		
Affirmed	17	68.0
Reversed	<u>8</u>	<u>32.0</u>
Total	25	100.0
Total		
Affirmed	23	50.0
Reversed	<u>23</u>	<u>50.0</u>
Total ⁷	<u>46</u>	<u>100.0</u>

6. 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 only as rough indicators of possible trends or problems.

7. Total of reported and unreported opinions in Table II do 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

	MAJORITY		CONCURRENCE				DISSENT ⁸	
	Authored Aff'd	Rev'd	Joined Aff'd	Rev.	Authored Aff'd	Rev'd	Joined Aff'd	Rev'd
ADKINS			1					
ALPERT	1							
BISHOP		2	2	1				
COUCH				2				
GILBERT	1		1				1	
LISS	4		3	2				
LOWE	2			3	1			
MACDANIEL	1		4					
MASON	1		3	1				
MOORE	2		4	1				
MORTON		1	3	1				
MOYLAN		1	5	1				
THOMPSON	2	1	1					
WILNER	3	1	1		1			1
WEANT		1	5	1				
SPECIALLY ASSIGNED		1	3	1				
TOTAL ⁹	17	8	36	14	1	1	0	0

8. For dissenting opinions, "affirmed" and "reversed" refer to the Court of Appeals' treatment of the majority decision. Thus, a dissenting opinion noted as "reversed" signifies that the Court of Appeals may have reached the same result urged by the dissenter.

9. See *supra* note 7.

TABLE III
ACTION OF JUDGES

JUDGE	AUTHORED ¹⁰				JOINED		
	Opinion of Court	(Pct.) ¹¹	Concurrence	Dissent ¹²	Opinion of Court	Concurrence	Dissent ¹²
COLE	12	(8.6)	0	2	121	0	4
COUCH	19	(13.7)	0	1	94	0	0
DAVIDSON	12	(8.6)	0	4	117	1	5
ELDRIDGE	18	(13.1)	1	7	107	1	0
MURPHY	10	(7.3)	0	10	93	0	4
RODOWSKY	17	(12.4)	1	3	109	0	5
SMITH	21	(15.3)	0	6	101	0	7
SPECIALLY ASSIGNED	3	(2.2)	1	1	14	0	0
PER CURIAM ¹³	25	(18.8)	—	—			
Total ¹⁴	137	(100.0)	3	34			

10. 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.

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

12. Opinions designated by their author 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. Otherwise, the designation of the opinion used by the author has been adopted.

13. "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.

14. See *supra* note 1.

TABLE IV
FREQUENCY OF SEPARATE OPINIONS¹⁵

The Court	Number	Percentage
UNANIMOUS OPINIONS	102	74.4
DECISIONS WITH CONCURRING OPINIONS	3	2.2
DECISIONS WITH DISSENTING OPINIONS	31	22.6
DECISIONS WITH BOTH CONCURRING OPINIONS AND DISSENTING OPINIONS	<u>1</u>	<u>0.8</u>
	137	100.0

15. Cases consolidated on appeal, in which the court issued a single opinion disposing of more than one case, are treated as a single opinions in this and all subsequent tables. The word "opinions" includes concurrences and dissents without opinions. Per Curiam opinions and orders are included in this table.

TABLE V
 JUDICIAL PERSUASIVENESS¹⁶

Author of the Opinion of the Court	Unanimous Opinions	Opinions with Concurrences	Opinions with Dissents	Opinions with Both
COLE	9 (90.0)	0 (0.0)	1 (10.0)	0 (0.0)
COUCH	13 (65.0)	1 (5.0)	5 (25.0)	1 (5.0)
DAVIDSON	10 (90.9)	0 (0.0)	1 (9.1)	0 (0.0)
ELDRIDGE	14 (77.8)	0 (0.0)	4 (22.2)	0 (0.0)
MURPHY	6 (66.7)	0 (0.0)	3 (33.3)	0 (0.0)
RODOWSKY	11 (68.7)	1 (6.3)	4 (25.0)	0 (0.0)
SMITH	16 (72.7)	1 (4.5)	5 (22.8)	0 (0.0)
SPECIALLY ASSIGNED	2 (50.0)	0 (0.0)	2 (50.0)	0 (0.0)

16. Per curiam opinions are not included in this table.

TABLE VI
VOTING ALIGNMENT
(Figures are Percentages)

A. ALL CASES¹⁷

		COUCH	DAVIDSON	ELDRIDGE	MURPHY	RODOWSKY	SMITH	SPECIALLY ASSIGNED
COLE	M	96.9	91.1	92.0	86.1	90.5	88.2	79.2
	S	0.0	3.2	1.6	0	0.9	0.8	0.0
	R	0.0	0.0	0.8	0.9	0.9	0.8	4.1
	D	3.1	5.7	5.6	13.0	7.7	10.2	16.7
COUCH	M		94.9	94.8	90.5	92.0	91.3	83.3
	S		0.0	0.0	0	2.0	0.0	0.0
	R		1.0	0.0	1.1	1.0	0.9	0.0
	D		4.1	5.2	8.4	5.0	7.8	16.7
DAVIDSON	M			91.0	85.8	88.5	86.0	77.3
	S			3.3	0.	0.8	0.8	0.0
	R			0.8	0.9	0.8	1.6	0.0
	D			4.9	13.3	9.8	11.6	22.7
ELDRIDGE	M				86.0	88.4	87.1	76.2
	S				0.0	0.9	0.0	0.0
	R				0.8	0.9	2.4	0.0
	D				13.2	9.8	10.5	23.8
MURPHY	M					86.7	84.6	90.0
	S					4.5	6.9	0.0
	R					0	0	0.0
	D					8.8	8.5	10.0
RODOWSKY	M						90.2	78.3
	S						4.1	0.0
	R						0.8	4.3
	D						4.9	17.4
SMITH	M							94.1
	S							0.0
	R							0.0
	D							5.9
SPECIALLY ASSIGNED	M							100.1
	S							0.0
	R							0.0
	D							0.0

17. 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.

"M" and "S" replace "J"—two judges *joining* in the same opinion—a symbol found in earlier tables.

This table includes all cases, both those with signed opinions of the court and per curiam opinions and orders (except voluntary dismissals 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.

TABLE VI (continued)

B. MOST ALIGNED—LEAST ALIGNED¹⁸

<u>Most Aligned</u>	M/S/R	D
Couch/Cole	96.9	3.1
Couch/Davidson	95.9	4.1
Davidson/Eldridge	95.1	4.9
Rodowsky/Smith	95.1	4.9
Couch/Rodowsky	95.0	5.0
<u>Least Aligned</u>		
Davidson/Murphy	86.7	13.3
Eldridge/Murphy	86.8	13.2
Cole/Murphy	87.0	13.0
Davidson/Smith	88.4	11.6
Eldridge/Smith	89.5	10.5

C. SWING VOTES

NUMBER OF SWING VOTES¹⁹

Eldridge	4
Couch	4
Rodowsky	3
Murphy	3
Cole	3
Davidson	3
Smith	2
Specially Assigned	2

VOTING COMBINATIONS IN SWING VOTE OPINIONS

Eldridge, Davidson, Couch, Cole	3
Murphy, Smith, Rodowsky, Digges (specially assigned)	1
Murphy, Smith, Rodowsky, Menchine (specially assigned)	1
Murphy, Eldridge, Rodowsky, Couch	1

18. 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.

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

TABLE VII
PRIMARY SUBJECT MATTER OF OPINIONS

	<u>Number of Opinions</u>
A. Public Law	
Criminal	
Constitutional Issues	
(federal and/or state)	8
Evidentiary	10
Procedural (non-constitutional)	18
Substantive	5
Civil	
Administrative	7
Constitutional—Maryland	8
Municipal Law	1
Real Property	
Eminent Domain	2
Zoning	2
Taxation	1
Other	5
B. Private Law	
Procedural	
Appellate	2
Pre-Trial and Trial	1
Substantive	
Contracts	10
Corporations	1
Custody/Domestic Relations	2
Insurance	2
Labor (including unemployment and worker's compensation)	5
Property (not including eminent domain and zoning)	4
Tort	7
Wills/Estates/Trusts	2
Other	2
C. Professional Questions	
Reinstatement	1
Discipline	14
Admission to Bar	3
	123