

# The Work of the Court of Appeals: a Statistical Miscellany - July 1, 1987 through June 30, 1988

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

July 1, 1987 through  
June 30, 1988<sup>1</sup>

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\* Tables prepared by Brian M. Reimer, Managing Editor of the *Maryland Law Review*.

1. Throughout these tables, unless otherwise noted, the data include all published opinions of the Court of Appeals issued between July 1, 1987, and June 30, 1988, inclusive. These tables, unlike some previous tables, include per curiam opinions. Separately captioned cases consolidated and disposed of by the court in a single decision are treated as separate cases in Tables IIA, IIB, IIIA, and IIIB. 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, 1987, and June 30, 1988.

TABLE I  
WRITS OF CERTIORARI

## DISPOSITION OF PETITIONS FOR WRIT OF CERTIORARI

			Percent
	Granted	Den.	Granted
To the Court of Special Appeals			
Decided in the Court of Special Appeals			
By Reported Opinion	58	90	39.2
By Unreported Opinion	52	431	10.8
Dismissed by the Court of Special Appeals	3	36	7.7
Pending in the Court of Special Appeals	21	22	48.8
To Circuit Courts	9	50	15.3
TOTAL (Petitions for Writ of Certiorari)	143	629	18.5

## CERTIORARI GRANTED ON MOTION OF COURT OF APPEALS

Pending in the Court of Special Appeals	37
TOTAL (Grants of Certiorari)	180

TABLE II  
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	33	
Unreported	41	
Total	74	46.0
Expedited to the Court of Appeals	44	27.3
To Circuit Courts	9	5.6
DIRECT APPEALS FROM CIRCUIT COURT	4	2.5
PETITION FOR WRIT OF MANDAMUS OR PROHIBITION	1	0.6
CERTIFIED QUESTIONS FROM FEDERAL COURTS	4	2.5
CERTIFIED QUESTIONS FROM THE COURT OF SPECIAL APPEALS	0	0.0
PROFESSIONAL SUPERVISION	24	14.9
REMAND FROM SUPREME COURT	1	0.6
ON MOTION FOR RECONSIDERATION	0	0.0
TOTAL	161	100.0

## B. COUNTY OF ORIGIN

COUNTY	NO. OF CASES	POPULATION <sup>2</sup>	PCT. OF CASES	PCT. OF POPULATION
Allegany	2	80,548	1.5	1.9
Anne Arundel	13	370,775	9.8	8.8
Baltimore	13	655,615	9.8	15.5
Calvert	1	34,638	0.8	0.8
Caroline	0	23,143	0.0	0.5
Carroll	4	96,356	3.0	2.3
Cecil	2	60,430	1.5	1.4
Charles	0	72,751	0.0	1.7
Dorchester	2	30,623	1.5	0.7
Frederick	1	114,263	0.8	2.7
Garrett	0	26,498	0.0	0.6
Harford	4	145,930	3.0	3.5
Howard	3	118,572	2.3	2.8
Kent	1	16,695	0.8	0.4
Montgomery	23	579,053	17.3	13.7
Prince George's	14	665,071	10.5	15.8
Queen Anne's	2	25,508	1.5	0.6
St. Mary's	1	59,895	0.8	1.4
Somerset	1	19,188	0.8	0.5
Talbot	1	25,604	0.8	0.6
Washington	1	113,086	0.8	2.7
Wicomico	0	64,540	0.0	1.5
Worcester	3	30,889	2.3	0.7
Baltimore City	41	786,775	30.8	18.7
TOTAL	133 <sup>3</sup>	4,216,446	100.4 <sup>4</sup>	99.8

2. 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).

3. Figure does not include 24 professional supervision cases or 4 questions certified from federal court.

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

TABLE III  
 THE COURT OF SPECIAL APPEALS IN  
 THE COURT OF APPEALS<sup>5</sup>

A. OPINIONS OF THE COURT OF SPECIAL APPEALS

	Number	Percentage
Unreported		
Affirmed	11	26.8
Reversed	20	48.8
Affirmed in Part/Reversed in Part	5	12.2
Writ of Certiorari Dismissed	5	12.2
Total	41	100.0
Reported		
Affirmed	16	48.5
Reversed	13	39.4
Affirmed in Part/Reversed in Part	3	9.1
Writ of Certiorari Dismissed	1	3.0
Total	33	100.0
Total		
Affirmed	27	36.5
Reversed	33	44.6
Affirmed in Part/Reversed in Part	8	10.8
Writ of Certiorari Dismissed	6	8.1
Total	74	100.0

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.

B. JUDGES OF THE COURT OF SPECIAL APPEALS<sup>6</sup>

	REPORTED MAJORITY OPINIONS				UN- REPORTED OPINIONS	
	Authored		Joined		Joined	
	Aff'd	Rev'd	Aff'd	Rev'd	Aff'd	Rev'd
Adkins	0	3	1	0	2	1
Alpert	4	1	0	2	3	3
Bell, R.B.	0	2	4	2	3	3
Bell, R.M.	1	2	0	3	2	5
Bishop	0	3	0	2	1	5
Bloom	2	0	3	6	5	9
Garrity	0	0	3	1	0	4
Getty	0	0	1	2	1	2
Gilbert	3	1	2	2	4	7
Karwacki	0	1	5	3	1	7
Menchine	0	0	0	0	1	0
Morton	0	0	0	0	0	1
Moylan	3	0	1	1	1	8
Pollitt	0	0	3	3	1	4
Weant	0	0	4	2	1	6
Wilner	1	3	3	1	2	3
Wenner	1	0	0	2	2	7
En Banc	1	0	-	-	0	0
Total	16	16	30	32	30	75

6. See *supra* note 5. The "Reversed" columns include eight decisions that were "Affirmed in Part and Reversed in Part" and decisions that were "Vacated and Remanded." There were no concurrences or dissents in any of these Court of Special Appeals Opinions.

TABLE IV  
ACTION OF COURT OF APPEALS JUDGES<sup>7</sup>

JUDGE	AUTHORED				JOINED <sup>8</sup>		
	Opin. of Court	(Pct.) <sup>9</sup>	Concur- rence	Dissent <sup>10</sup>	Opin. of Court	Concur- rence	Dissent
Adkins	16	(10.3)	1	1	69	0	2
Blackwell	6	(3.8)	0	0	53	2	0
Cole	13	(8.3)	1	3	102	2	2
Couch	3	(1.9)	0	0	57	1	0
Eldridge	20	(12.8)	6	1	86	0	0
Gilbert	0	(0.0)	0	0	1	0	0
Karwacki	0	(0.0)	0	0	2	0	0
McAuliffe	15	(9.6)	3	5	94	0	2
Menchine	0	(0.0)	0	0	1	0	0
Murphy	21	(13.5)	0	1	81	0	4
Orth	10	(6.4)	0	0	11	0	0
Rodowsky	18	(11.5)	0	1	102	0	1
Smith	1	(0.6)	0	0	32	2	0
Per Curiam <sup>11</sup>	33	(21.2)	-	-	-	-	-
Total	156 <sup>12</sup>	(99.9)	11	12	691	7	11

7. 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. Judge Blackwell joined the court on July 13, 1987. Judges Gilbert, Karwacki, Menchine, and Orth were specially assigned to hear designated cases.

8. 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.

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

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

11. "Per Curiam" includes per curiam opinions and orders published without a signed opinion.

12. 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 V  
FREQUENCY OF SEPARATE OPINIONS

The Court	Number	Percentage
Unanimous Opinions	136	87.2
Decisions with Concurring Opinions	8	5.1
Decisions with Dissenting Opinions	10	6.4
Decisions with Both Concurring Opinions and Dissenting Opinions	1	0.6
Decisions Concurring in Part and Dissenting in Part	<u>1</u>	<u>0.6</u>
	156	99.9

TABLE VI  
VOTING ALIGNMENT  
A. SWING VOTES

*Number of Swing Votes*<sup>13</sup>

Adkins	2
Blackwell	3
Cole	1
Eldridge	2
McAuliffe	1
Murphy	1
Rodowsky	2
<i>Voting Combinations in Swing Vote Opinions</i>	
Adkins, Blackwell, Cole, Eldridge	1
Adkins, Blackwell, Eldridge, Rodowsky	1
Blackwell, McAuliffe, Murphy, Rodowsky	1

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



B. ALL CASES<sup>14</sup>

(Figures are Percentages)

		Blackwell	Cole	Couch	Eldridge	McAuliffe	Murphy	Rodowsky
Adkins	M	91.9	93.4	100.0	92.9	91.3	91.3	94.3
	S	0.0	2.8	0.0	1.0	0.0	0.0	0.0
	R	3.2	0.9	0.0	4.1	2.9	2.2	1.9
	D	4.8	2.8	0.0	2.0	5.8	6.5	3.8
Blackwell	M		90.5	—	95.6	94.3	93.4	96.1
	S		1.4	—	1.5	1.4	0.0	0.0
	R		2.7	—	1.5	0.0	3.3	2.6
	D		5.4	—	1.5	4.2	3.3	1.3
Cole	M			96.8	89.8	90.1	90.8	92.6
	S			0.0	1.6	2.3	0.8	0.0
	R			1.6	5.5	3.1	2.5	2.2
	D			1.6	3.1	4.6	5.9	5.1
Couch	M				91.5	88.3	93.4	96.7
	S				1.7	0.0	0.0	0.0
	R				6.8	5.0	1.6	1.7
	D				0.0	6.7	4.9	1.7
Eldridge	M					88.5	91.0	92.9
	S					0.0	0.0	0.0
	R					4.9	4.5	4.7
	D					6.6	4.5	2.4
McAuliffe	M						91.5	92.4
	S						2.6	0.8
	R						1.7	1.5
	D						4.3	5.3
Murphy	M							95.9
	S							1.7
	R							0.0
	D							2.5

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 three orders that failed to mention the issuing judges).

TABLE VII  
PRIMARY SUBJECT MATTER OF OPINIONS

	<i>Number of Opinions Decision</i>		
	<i>Total</i>	<i>For Gov</i>	<i>Ag Gov</i>
A. Public Law			
Criminal			
Constitutional Issues (federal and/or state)	22	14	8
Evidentiary	6	3	3
Procedural (nonconstitutional)	12	4	8
Substantive	9	5	4
Civil			
Administrative	4	2	2
Antitrust	0	0	0
Constitutional			
Federal	3	1	2
State	1	1	0
Consumer Law	1	1	0
Health Care	0	0	0
Municipal Law	4	3	1
Real Property			
Eminent Domain	1	1	0
Zoning	2	1	1
Taxation	10	8	2
B. Private Law			
Procedural			
Appellate	14	1	2
Pre-Trial and Trial	9	0	1
Substantive			
Bankruptcy	1	-	-
Commercial	1	-	-
Contracts	3	-	-
Corporations	2	0	1
Custody/Domestic Relations	2	-	-
Insurance	2	-	-
Labor (including unemployment and workers' compensation)	6	-	-
Property	4	-	-
Torts	5	-	-
Wills/Estates/Trusts	2	1	0
C. Writ of Certiorari Dismissed	6	-	-
D. Professional Questions			
Reinstatement	0	-	-
Disciplinary	3	-	-
Admission to Bar	18	-	-
Unreported Per Curiam	3	-	-
	<u>156</u>	<u>46</u>	<u>35</u>