

Rooker Report

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NEW MILLENNIUM JUDGES PREPARE FOR INSTALLATION CEREMONIES

COURTS COMING TO ORDER



With the final judgeship having finally been filled by voters and inauguration ceremonies just around the corner, the county's judicial class of the new millennium is coming to order.

As construction crews race the clock to assure accommodations for the newest bench members, the 26 men and women who will preside over the various judicial levels are preparing to become "century crossovers" with eight-year terms extending into the 21st Century.

It is an honor shared by only four other judges of the past and one not likely to be repeated in this lifetime, short of a miraculous discovery of an immortality drug.

The historical event actually begins on September 1, but the clamor will start several days earlier with oath-taking ceremonies at various venues and various times. Not all schedules have been finalized at this point.

All but one of the 11 General Sessions judges have agreed to a mass ceremony at 2 p.m. on August 28 in the Metro Council chambers. Judge Gloria Dumas, one of four new members of the court, has opted for Aug. 31 at the Legislative Plaza in order to accommodate family members who are unable to attend the earlier ceremony in the council chambers.

A Civil Approach to Criminal Contempt

A state court of appeals ruled in March that a private attorney in a civil case may not serve as a special prosecutor of a petition for criminal contempt, based upon conduct arising out of a civil proceeding.

The court ruled that such an appointment of an "interested" special prosecutor in a criminal contempt proceeding "is contrary to the ethical standards required of lawyers in the practice of law, as well as the high ethical standard required of the judicial process."



ROSENBERG

In prohibiting the practice from continuing, the court effectively placed responsibility of such matters with the state's district attorneys, who immediately felt the pinch of the added dimension.

In Nashville, District Attorney General Torry Johnson responded by hiring attorney Scott Rosenberg, a former colleague with vast experience in matters dealing with the types of issues affected by the ruling, primarily child support and visitation rights evolving from divorce cases.

Rosenberg's credentials for the job included seven years in child support enforcement, partly with Johnson's office and most recently with the private company Maximus. He entered private practice earlier this year after losing a bid to become Juvenile Court judge. He spends much of his time now in divorce court, replacing the private lawyers who previously prosecuted their adversaries' clients on criminal contempt charges.

An example of his effectiveness came earlier this month when a woman he prosecuted was sentenced to 10 days in jail for refusing to let her children visit her ex-husband in accordance with court order.

It was Rosenberg's first contempt of court trial since assuming the job.

Judge Leon Ruben will participate in the Aug. 28 ceremonies, but will consider his "official" oath as the one he will receive from Circuit Court Clerk Richard Rooker via long distance from Orlando where he will be participating in the American Judges Conference on the first day of his new term. Ruben says he will telephone Rooker at precisely 8 a.m. (Nashville time) on September 1 to have the oath administered -- quite possibly another historical event.

Other judges have made personal choices as well. For example, General Sessions Judge Mike Mondelli will receive the oath from his father Les Mondelli, himself a former judge. And state supreme court justice A.A. Birch is expected to play a major role in the induction of several jurists.

The creation of three new courts makes this the largest contingent of judges to participate in oath-taking ceremonies. The latest to receive voter validation was John Aaron Holt, the only candidate for a new sessions judgeship who faced opposition in this month's general election. He will join Dumas, Mark Fishburn and Casey Moreland as new members of the 11-division court. Carol Soloman becomes the first judge of the newly created eighth division of circuit court.

'...A PROSECUTOR OF A CONTEMPT ACTION WHO REPRESENTS THE PRIVATE BENEFICIARY OF THE COURT ORDER ...IS REQUIRED BY THE VERY STANDARDS OF THE PROFESSION TO SERVE TWO MASTERS.' —COURT OF APPEALS

Others have been settled out of court, largely because of the stringent criteria for seeking criminal contempt prosecution. Complaining parties must meet specific guidelines in determining whether criminal contempt is appropriate, he said, and they are advised of situations that *may not* meet the standards for prosecution.

In condemning the appointment of private lawyers to carry out this procedure, the appellate court concluded that, "The appointment of an interested special prosecutor presents the public with the appearance of impropriety. As such, we deem the appointment as contrary to the appearance of integrity and impartiality which the judiciary must strive to maintain."

The court acknowledged the "judicial economy" of utilizing opposing counsel because of an inherent familiarity with the facts of the case, but noted that, "The interest of judicial economy should not be placed above the interest of judicial integrity."

The ruling is now on appeal with the state supreme court.

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◆ PORTRAIT OF LATE JUDGE JIM EVERETT IS GIVEN PERMANENT RESIDENCE IN THE PROBATE COURTROOM WHERE HE PRESIDED. A CLOSER VIEW.



OPEN APPEAL FORMS READY

◆ NEW APPEAL BOND AND NOTICE OF APPEAL FORMS ARE NOW AVAILABLE IN THE CIRCUIT COURT CLERK'S OFFICE.

ATTORNEYS ARE ENCOURAGED TO USE THEM WHEN FILING APPEALS.

Cheers...

The stork has been working overtime since our last report, delivering the joy of grand-parenthood to three of our employees and providing the following leadoff items for this column:

♦ The newest glow belongs to **Carolyn Davis** of our circuit court clerk's office, who welcomed grandson **Brandon Anthony Driver** into the world on Aug. 3 at Baptist Hospital. Brandon, whose 19.75 inch body tilted the scales at 7 pounds, 11.75 ounces, is the son of Carolyn's daughter **Kim Driver** and her husband **Tony**.

♦ Traffic docket clerk **Vickie Slate** is reveling in her new role as a grandmother. Her son **Ronnie McEwen** became a father on July 20 with the arrival of a 6-pound, 5-ounce daughter named **Keelie Sha McEwen**, who stretched to 20 inches on the tape measure.

♦ Also becoming grandparents for the first time last month were **Dan and Dianna Vincent**. As you know, Dan is on our circuit staff and Dianna once was our go-to gal for problems with insurance. They are equally proud of **Tyler Mitchell Vincent**, an 8-pound, 1-ounce scrapper who arrived on June 16 in Ocala, Fla., where son **Daniel Vincent** and his wife **Eve** reside.

♦ When State Trial Court Administrator **Larry Stephenson** celebrated a milestone birthday last month, coworkers and several other friends didn't let it go unnoticed. They threw a surprise party for him in the jury assembly room, replete with all the gag trimmings suited for a good sport.

♦ Former traffic bureau computer entry clerk **Kelly Hollingsworth** is marching to a new beat, now that she has completed training at the local police academy. Kelly was among the academy's graduating class on July 22 and now is undergoing on-job training enroute to becoming a full-fledged peace officer.

♦ Chancellor **Ellen Hobbs Lyle** is excited over being summoned for jury duty in January. "I've always *wanted* to serve on a jury," she responded when jury coordinator **Cheryl Kennedy** handed her the summons. (Pssst! Hey, chancellor. If you wind up in Fifth Circuit, watch out. We hear the judge in there has a crush on you.)

♦ Youth league baseball has been winding down this month and a number of our employees have been rooting their children and grandchildren to glory in tournament play. Among them were **Betty and John Murray**, whose grandson **Todd Murray** was a member of the **Worth Copperheads**, who won the AABC World Series in Kansas City, Mo. Todd, 15, was coached by his father **Johnny Murray**.

♦ It's a good thing that deputy circuit clerk **Jeff Parkinson** is handy with carpentry tools. Looks like he might need to build a bigger trophy case for son **Cory**, who just keeps winning baseball titles. Cory's diamond achievements have often been documented in this report. And now he has added another plum to his collection, helping the **Crieve Hall Cardinals** claim the state championship for 11-year-olds in the Babe Ruth League.

♦ **Will Cripps III**, son of the probate bookkeeper of the same name, fell short in his quest to compete nationally for the Dixie Youth baseball championship. But the outfielder for the **Goodlettsville All-Stars** did himself proud by sharing third place spoils in state competition for 11-12 year olds at Dyersburg.

September Birthdays

TRAFFIC VIOLATIONS BUREAU--5 Annette Wheeler, 11 Bill Cartwright, 15 Dickey Fuqua, 20 Nancy Capps, 21 Tony Eden, 22 Elaine Howell, 27 Leslie Allumbaugh & Don Rosso, 28 Elizabeth Harris.

GENERAL SESSIONS--21 Stephanie Phillips.

PROBATE--5 Anita Riggan, 18 Bob Bradshaw & Ricky Deatherage.

CIRCUIT COURT CLERK--3 Annecia Donigan, 15 Trey Everett, 23 Candy Rucker, 29 Betty Thompson.

BELATED--August 29 Kim Davenport, General Sessions.



Trey Everett stands before a portrait of his late father, Judge Jim Everett following unveiling ceremonies on July 24. With Everett is artist Lynn Thompson, who painted the portrait and was on hand for its dedication in the courtroom Everett presided over for 13 years. The portrait hangs alongside the late Beverly Briley and Shelton Luton, the court's previous judges. Current judge Frank Clement Jr. presided over the ceremonies. Trey Everett is a court officer for Circuit Judge Muriel Robinson and a newlywed as of Aug. 8.

...Tears



KITRELL

Nashville attorney **Tom Kittrell Sr.** passed away at his farm in Pery County on July 19. He was a 1951 graduate of Vanderbilt Law School. Besides his wife **Gene Kittrell**, survivors include a son, **H. Tom Kittrell Jr.**, also an attorney.

Veteran lawyer **William Norvell Dearborn**, most recently a member of the **Boult, Cummings, Connors and Berry** law firm, died on Aug. 4 following a stroke. He was 81 and founded **Dearborn and Ewing**, one of the state's largest law firms, during the early 1970s.

Margaret M. Faulkner, 75, retired chief deputy clerk to the state Supreme Court, died on July 25 from emphysema-related illness. Prior to accepting a position with the high court in 1963, Mrs. Faulkner spent two years as a deputy in the Davidson County Probate Court clerk's office.

A number of our staff members lost family members during the past month. We extend our condolences to...

...**Marie Anderson** of our General Sessions Civil Division staff in the death of her mother, **Lorene Edwards** of Franklin. Mrs. Edwards succumbed to a lengthy illness on July 14. Marie had been on leave of absence to care for her mother but has now returned to work.

...**Julie Herring**, wife of circuit file clerk **Mark Herring**, in the passing of her grandfather **Harry Anderson** of Nashville. Mr. Anderson was 77 at the time of his death on July 24.

...Traffic warrant clerk **Robert Coleman**, whose brother **Orville Lee Coleman** of Waverly died July 25 at Baptist Hospital. He was 59 years old and a retired Metro fireman.

...**Teri Brown**, wife of traffic warrant officer **Mitch Brown**, in the death of her grandmother **Beatrice Flicek** on July 24.

...**Jeff Parkinson** of our circuit court staff in the Aug. 3 accidental death of his uncle **John Alfred Creech**, 61, of Watertown.

...Circuit cashier **Annecia Donigan**, whose aunt **Adele Bell** passed away on July 29.

JURY TRIAL VERDICTS

ABBREVIATIONS

- P-PLAINTIFF
- ST-SOFT TISSUE
- D-DEFENDANT
- REC-RECOVERY
- CP-COUNTER PLAINTIFF
- CD-COUNTER DEFENDANT
- YTD-YEAR TO DATE

Week of July 13

CIRCUIT COURT

APPEALS GENERAL SESSIONS

CASE	TYPE	COURT	VERDICT	JUDGMENT	APPELLANT
96C-1590	AUTO ACCIDENT/ST	5TH (P)	\$2 MILLION		
96C-1521	AUTO ACCIDENT/ST	1ST (P)	No AWARD		
96C-3884	AUTO ACCIDENT/ST	3RD** (P)	\$5,600		
97C-1574	AUTO ACCIDENT/ST	2ND (P)	\$20,725		

Week of July 20

CASE	TYPE	COURT	VERDICT	JUDGMENT	APPELLANT
94C-520	MED MALPRACTICE	6TH (P)	\$7,500		
97C-1103	ASSAULT	5TH (P)	\$2,754		
97C-3639	AUTO ACCIDENT/ST	2ND (P)	\$915	P-\$3,000	(D)
96C-2768	AUTO ACCIDENT/ST	2ND (P)	\$12,000		
95C-4408	ASSAULT	1ST	DEFENDANT		

**WAIVED JURY

NON-JURY TRIAL RESULTS

Week of July 6

CASE	TYPE	COURT	VERDICT	JUDGMENT	APPELLANT
95C-1175	AUTO ACCIDENT/ST	1ST	DISMISSED		
97C-3280	GSA CONTRACT	6TH (P)	\$3,524	P-\$3,137	(D)
97C-3358	GSA DETAINER	5TH*	DISMISSED	P-\$1,200	(D)
97C-900	AUTO ACCIDENT	5TH* (P)	\$2,750		
96C-3898	CONTRACT	1ST (P)	\$100		
97C-3035	GSA CONTRACT	5TH* (P)	\$7,500	P-\$9,809	(D)
96C-3453	WORKMAN COMP	6TH	?????		
97C-2659	GSA AUTO	1ST (P)	\$6,000	P-\$9,999	(D)
96C-2586	GSA CONTRACT	1ST (P)	\$3,735	DEFENDANT	(P)
96C-3251	DAMAGES	1ST (P)	\$22,500		
96C-2567/2705	DAMAGES	6TH (P)	\$40,000		
96C-3633	GSA PERSONAL INJURY	5TH* (P)	\$5,000	P-\$6,500	(D)
97C-3350	GSA SLIP/FALL	1ST (P)	\$2,500	DEFENDANT	(P)
97C-3355-3356	GSA CONTRACT	5TH* (CP)	\$5,500	P-\$5,594	(CD)
97C-2582	GSA AUTO	5TH* (P)	\$3,678	P-\$3,678	(D)
97C-3788	GSA AUTO	5TH* (P)	\$6,300	P-\$6,600	(D)
97C-391	WORKMAN COMP	6TH (P)	\$20,377		

Week of July 27

CASE	TYPE	COURT	VERDICT	JUDGMENT	APPELLANT
96C-3554	EMPLOY AGREEMENT	5TH (P)	\$15,000		
97C-3844	GSA TRANSFER	2ND (P)	\$9,997		
98C-1200	GSA TRANSFER	2ND (P)	\$11,500		
97C-3033/3038	GSA AUTO	5TH (P)	\$4,000	P-\$4,000	(D)
96C-2915	DAMAGES	3RD (P)	\$17,891		
97C-3455/3463-64	GSA PERSONAL INJURY	3RD	DISMISSED	DISMISSED	(P)
96C-2821	SLIP/FALL	5TH	DEFENDANT		
96C-3893	DAMAGES	3RD (P)	\$75,000		
96C-1972	WORKMAN COMP	5TH	10% PERM/30% VOCAT.		
97C-1409	DAMAGES	3RD (P)	\$31,112		
97C-2529	WORKMAN COMP	* (P)	\$35,427		

*HEARD BY SPECIAL MASTER MARSH NICHOLS



	JULY	YTD
TOTAL CASES CONSIDERED	28	121
Auto Accidents	19	70
Negligence	0	3
Assault	0	1
Store Injury	0	1
Wrongful Death	0	2
Condemnation	2	7
Indecent Exposure	0	1
Contract Dispute	1	3
Slip & Fall	1	9
Defamation	0	2
Medical Malpractice	0	8
Sexual Harassment	1	2
Personal Injury	0	3
Torts	1	3
Outrageous Conduct	0	1
Fraud	0	1
Air Bag	0	1
Property Damage	1	1
Attorney Malpractice	1	1
Soft Tissue	1	1

	JULY	YTD
Settled	25	64
Partial Settlement	0	1
Pending settlement	0	5
No settlement reached	3	23
Trials with jury verdicts	0	1
Dismissals	0	3
Summary judgments	0	0
Pre-conference settlements	0	10
Post-conference settlements	0	4
Non-suits	0	0
Bankruptcies	0	0
Continued	0	9
Canceled	0	1

(Source: Megan Gregory, case coordinator)

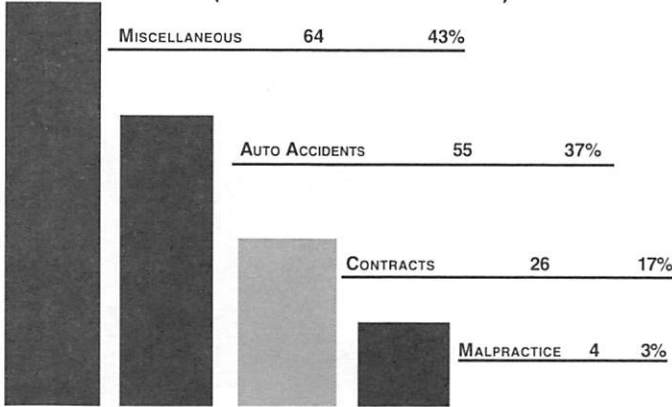
CORRECTION

The number of divorce cases concluded during the 1997-98 fiscal year was 3,595 -- not 4,126 as reported in our July edition. The 4,126 figure was actually the number of civil cases concluded and was wrongly attributed. The number of divorce cases concluded was 194 more than new divorce cases filed during the 12-month period.

TRENDS

Jury Trials by Classification

(JANUARY THROUGH JULY COMPOSITE)



DATA BANK

Statistics compiled for the month of July

CASE INFORMATION

Circuit Court

NEW CIVIL CASES FILED	283
CIVIL CASES CONCLUDED	378
NEW DIVORCE CASES FILED	283
DIVORCE CASES CONCLUDED	312

General Sessions Civil

NEW CASES FILED	2,924
EXECUTIONS ISSUED	3,195
GARNISHMENT PAYMENTS	3,825
JUDGMENTS COLLECTED	\$548,958
ORDER OF PROTECTION PETITIONS	206

Probate Court

NEW CASES FILED	174
CASES CLOSED	128

Traffic Violations

MOVING CITATIONS	23,984
PARKING VIOLATIONS	8,568
TOTAL FINES COLLECTED	\$350,580
NULLIFICATIONS	2,370
NULLIFICATION FEES COLLECTED	\$21,330

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Established by George L. Rooker (1929-1993),
(Circuit Court Clerk, 1968-1993)

Richard R. Rooker Circuit Court Clerk
Gene Baker Editor

CASE ANALYSES



AUTO ACCIDENTS

PLAINTIFFS 33
DEFENDANTS 15

RATIO: PLAINTIFFS 2.3-1

MONTH-BY-MONTH

MONTH	TOTALS	JURY	NON-JURY	PLAINTIFF	DEFENDANT	NONE
JANUARY	11	11	0	8	2	1
FEBRUARY	13	10	3	8	4	1
MARCH	16	10	6	9	7	0
APRIL	1	1	0	1	0	0
MAY	9	8	1	7	2	0
JUNE	10	9	1	7	1	2
JULY	12	6	6	11	0	1
YEAR-TO-DATE	72	55	17	51	16	5

JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	26,190	200-12,168	2,303
FEBRUARY	107,955	1,00-50,000	19,318
MARCH	100,419	364-57,669	14,124
APRIL	525,000	NO RANGE	NO MEAN
MAY	167,638	3,206-103,777	15,163
JUNE	36,545	1,616-15,000	4,982
JULY	2,039,240	915-2,000,000	12,741

NON-JURY AWARDS

MONTH	\$TOTALS	DOLLAR RANGE	\$MEAN
JANUARY	NO REPORT	NO REPORT	NO REPORT
FEBRUARY	53,500	4,500-34,000	15,000
MARCH	126,855	4,300-92,750	9,935
APRIL	NO CASES	NO CASES	NO CASES
MAY	5,198	NONE	NONE
JUNE	210,000	NONE	NONE
JULY	22,728	2,750-6,300	4,559

*GENERAL SESSIONS APPEALS

MONTH	TOTALS	PLAINTIFF	DEFENDANT	NONE
JANUARY	3	3	0	0
FEBRUARY	3	1	2	0
MARCH	2	0	2	0
APRIL	0	0	0	0
MAY	1	1	0	0
JUNE	3	3	0	0
JULY	4	4	0	0
YEAR-TO-DATE	16	12	4	0

RATIO: 3-1

*INCLUDED IN ABOVE TRIAL TOTALS

THE OTHERS

CONTRACTS



26
PLAINTIFFS 16
DEFENDANTS 5
NO VERDICT 5

RATIO: PLAINTIFFS 3.1-1

TOTAL AWARDS

YEAR TO DATE: \$121,791

JULY DOLLAR RANGE:
100-7,500

MEAN:
\$ 4,253

MALPRACTICE



4
PLAINTIFFS 1
DEFENDANTS 1
NO VERDICT 2

RATIO: 1-1



MISCELLANEOUS

64

PLAINTIFFS 47
DEFENDANTS 11
NO VERDICT 6

RATIO: PLAINTIFFS 4.3-1