

The Sun

Judges rule justice slow, throw out conviction; Md.'s top court says judge shortage no excuse in drunken driving case

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CORRECTION

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The state's top court erased a Howard County drunken driving conviction yesterday, taking a swipe at the governor in its ruling that the defendant was denied a speedy District Court trial because the court set a trial date a year after his arrest.

The 1996 case of John E. Divver was enmeshed in the political controversy over Gov. Parris N. Glendening's attempt to diversify the bench in Howard County. In a unanimous opinion yesterday, judges said the lack of District Court judges -- two of four positions were vacant -- was not a reason for delaying a court date one year and 16 days.

The ruling sends a red flag statewide. In Baltimore, it can take 18 months for traffic cases to hit court.

Martha F. Rasin, chief judge of the District Court, said she is trying to address the problem statewide, although she said it is common for cases to be dismissed at the District Court level for failure to set timely court dates. How many cases evaporate because of court delays is unknown, she said.

This was the first time the Court of Appeals looked at the speedy trial issue at the state's lowest court.

"We are working on developing standards for what is a reasonable time frame for going to trial," Rasin said.

Divver was charged in May 1996 with drunken driving. Despite his request for a speedy trial, prosecutors did not seek an earlier trial. The Silver Spring man was told his trial would be in June 1997.

He was convicted, appealed, convicted in Circuit Court and appealed again.

Prosecutors blamed a shortage of judges. Politicians warned of the backlog. The Court of Appeals said one part of the government cannot blame another.

"The appointment of judges is much too political in Maryland," said state Sen. Christopher J. McCabe, who had pushed for quick appointments of the judges.

In September 1996, Judge R. Russell Sadler retired from Howard's District Court. Political observers figured Glendening would not fill the vacancy until November, when he would know if his 1995 Circuit Court appointee, Donna Hill Staton, Howard's first black judge, survived the election. But in a bitter contest and rebuke to the governor, Hill Staton lost to District Judge Lenore R. Gelfman, which created a second vacancy.

After the election, James N. Vaughan, administrative judge for Howard and Carroll counties' district courts, predicted a backlog of cases despite importing judges to take cases.

"We were doing the best we could. It was not good enough," Rasin said.

In January 1997 Glendening chose Neil E. Axel, co-chairman of Hill Staton's campaign, and another Glendening appointee, Circuit Judge Diane O. Leasure, for the District Court bench.

Minority activists pressured him to make his next appointment the first African-American on the District Court and he did. He named Alice Gail Pollard Clark in May 1997.

Correction:

An article in Saturday's editions incorrectly reported that the Court of Appeals criticized the governor in its opinion overturning a drunken-driving conviction. Ruling that the driver did not get a speedy trial, the court said it was immaterial whether the Howard County District Court was short of judges, but it did not mention Gov. Parris N. Glendening. And although the article said that the case had been enmeshed in political controversy over his attempt to diversify the Howard County bench, the connection was coincidental. Also, the article incorrectly reported Glendening's appointment of Judge Diane O. Leasure. Leasure was appointed to the Howard County Circuit Court in 1995. The Sun regrets the errors.

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