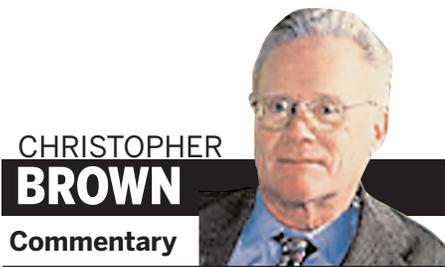


Maryland Lawyer

News and analysis of legal matters in Maryland

Voting patterns of Court of Appeals judges

The 2010 season for the Maryland Court of Appeals reproduced some of the standard voting patterns and initiated some new observations. Chief Judge Robert M. Bell continues to win the “most liberal” competition, voting with that side 96 percent of the time. The total number of votes (182) was evenly split (91-91) between liberal votes and conservative votes. Overall, the two factions split the 26 decisions, with each side winning 13 times.



CHRISTOPHER BROWN

Commentary

One measure of an appellate judge’s ideological inclination is the way he or she votes in closely debated cases, such as 4-to-3 and 5-to-2 splits. Observing the voting patterns for the judges in tort and criminal cases would indicate that “liberal” judges favor tort plaintiffs and criminal defendants, while “conservative” judges would more often support tort defendants and the prosecutor.

During 2010, the court resolved 38 cases by 5-2 or 4-3 margins. Of these, 26 posed issues that were politically sensitive. These were the cases chosen to analyze cohesiveness in the resolution process. Voting was far more contentious in 2010 than in

prior years, which had produced on average about 17 split decisions. Of these 26 cases, the bulk (19) were criminal in nature. Five of the remaining were tort cases.

Chief Judge Bell continues to vote almost 100 percent liberal. In the past seven years he has supported the conservatives’ side only twice out of 124 votes.

Judge Joseph F. Murphy Jr.’s voting pattern was most unusual. In criminal cases, he voted conservatively 16 out of 19 times (84 percent). However, in civil cases, his seven votes in seven cases were 100 percent liberal. He therefore defied the usual pattern and favored civil plaintiffs and prosecutors.

Judge Clayton Greene Jr.’s pattern of votes was the opposite. His criminal-case record was 18 liberal votes out of 19 (95 percent). In civil cases, however, he only cast two liberal votes out of seven opportunities.

For all cases — not just politically sensitive ones — several judges spoke up even if outnumbered 6 to 1. In 15 cases, judges filed solo dissents. Judge Murphy filed the most, six, while the chief judge filed four.

There was a new winner in 2010 of the “most conservative” award: Judge Mary Ellen Barbera, who voted the conservative position 17 times out of 22 (77 percent). She edged out Judge Sally D. Adkins, who had a 74 percent record. Judge Barbera also knocked off Judge Glenn T. Harrell, who had gotten this distinction for the past several years.

Retired judges frequently found

themselves involved in split-decision cases. Their votes totaled nine, all but one of which were liberal. Judge John C. Eldridge led this subgroup with a consistent record of seven liberal votes out of seven. Judge Eldridge’s involvement in a significant number of cases provided the liberal votes to counter balance the conservative votes of non-retired judges.

C. Christopher Brown is a founding member of Brown, Goldstein & Levy, a firm in Baltimore. He has written guest columns on appellate practice for The Daily Record since 1999.

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Maryland Court of Appeals Voting: 2010 Term

Judge	Liberal-Conservative	Percent Liberal
Bell	25-1	96
Greene	20-6	77
Murphy	10-16	38
Battaglia	9-15	37
Harrell	8-18	31
Adkins	6-17	26
Barbera	5-17	23
Eldridge	7-0	100
Raker	1-0	100
Rodowsky	0-1	0
Total	91-91	50

Compiled by Christopher Brown