



THE Gavel

Probate News

Message from the President

HAPPY SPRING EVERYONE!

Even though we had a mild winter, I think I have Spring fever! I look forward to seeing everyone in a few weeks at Spring Conference in Macon. The Training Council and ICJE have been working hard to arrange speakers and topics of interest and I know we will get receive a great deal of useful information.

As my year of leadership winds down, I just want to thank everyone for all their

support and hard work. I couldn't have done it without all of your help! Kevin Holder made my job easy and I thank you! I know Rooney Bowen will lead us well in 2017-2018 and I look forward to continuing to work with him and the Executive Committee.



Please enjoy this edition of The Gavel. Tony Thompson and his committee have worked hard to make it meaningful and informative to all of us and I thank them! It's not an easy job and when you see Tony in Macon please be sure to tell him "Thank you".

Here's a picture from my trip to South Africa earlier this month!

See you in Macon!
Alice

Alice W. Padgett

Judge Alice W. Padgett President, CPCJ



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3 Named to Georgia Bar Committees

Three Evans-based members of the State Bar of Georgia have been appointed to serve as members of standing, special or program committees of the 48,000-member association for 2016-17.

Columbia County Probate Court **Judge Alice W. Padgett** was named to the Bench & Bar Committee, which oversees the Judicial District Professionalism Program and works to identify and facilitate solutions to issues of mutual interest between the state's judges and lawyers for the benefit of the public.

Lucy D. Roth was selected for the Member Benefits Committee, which identifies and communicates to bar members the existence and benefits of services and products of value to them and their law practices.

William E. Cassara will serve on the Military Legal Assistance Program Committee, which provides oversight for the program to facilitate pro bono representation for military veterans and service members in addressing their unmet legal needs.

Message from the Editor

Dear Judges,

If you can pardon my analogies to this time of year:

It is a pleasure to greet another Spring with a fresh crop of blossoming new Judges! When I saw the picture of the all the new judges planted into the Council, I was amazed. With new talents and gifts our Council will surely continue to grow and flourish. With attention and nurturing from mentors and colleagues our crop of judges will yield a wonderful harvest!

Okay, forgive me. But it is exciting to see all the new judges. It seems like only yesterday I was one of the new judges. October 13th, 2009, was not that long ago! We are indebted to and will continue to treasure and lean on our emeritus and senior judges. Institutional memory is a fragile thing. We would be wise to hold on to it.

To that end I have included an article from retired Judge William J. Self of Bibb County Probate Court who shares the importance of holding probate hearings. It is been our experience that holding a hearing on almost all of our probate filings greatly reduces the poten-



tial for errors. It also helps personal representatives understand their duties and responsibilities under the law. That may not work for everyone but it works for us. Please be encouraged to share with us your "best practices" that work for you.

I look forward to another great year of challenges and rewards.

Respectfully yours,

Tony Thompson
Candler County Probate Court
The Gavel Editor

Why I Do What I Do, What I Do

William J. Self, II, Judge
Probate Court of Bibb County

No, its not the name of a new pop-rock song. I realize, more and more, that there may be 159 different modi operandi (Caesar's way of saying ways of doing things) with regard to the various proceedings in Probate Court in the counties of the state. Have we not all heard, "That's not the way we do it in (blank) County?" Uniformity of procedures (standard laws, standard rules, standard forms, etc.) does not necessarily mean uniformity in the method of processing paperwork or handling cases and hearings. Much of what we all do often is done because that's the way we've always done it! But much of what we do is also because our way works well for us, and we like it. Perhaps we might share our reasons for doing things in a particular way or share with others practical suggestions that work well for us. Many may find it comforting or supportive just to find that others do it the same way, too.

This article is submitted for that purpose. It is NOT intended to suggest that my way is the RIGHT way. It is offered only to provide an explanation of why we choose to do certain things in a certain manner here in my court and to offer to others suggestions that some may find useful or helpful. I hope that other judges will submit their suggestions and methods of practice for our common consideration.

Why I hold a hearing in every will probate or administration case

In our experience, some 15% to 20% of the petitions filed fail to properly and completely list the heirs of the decedent. This proves true for us even when the petitioner is represented by an attorney. (In fact, we think the percentage may be lower for pro se petitioners; they seem to more carefully read the standard forms and instructions.) By holding a hearing at which the petitioner testifies, we believe that we most often uncover these deficiencies before entering a

final order and issuing Letters. We find that many attorneys, especially those who don't regularly practice in the probate field, don't really understand the laws of descent and distribution and the term heirs. Many attorneys leave the task of completing the petitions, as well as the obtaining of the information from the clients, to paralegals or secretaries, some of whom have never been trained to ask the right questions to get all of the necessary information. Simply asking the client to tell me who the decedents heirs are will seldom produce complete information, especially if neither the client nor the questioner fully understands the concept. This is the primary reason why we will reject will probate petitions which name grandchildren or collateral heirs but offer no explanation in paragraph 4. as required. The mere completion of paragraph 4. tends to draw out the necessary information.

Further, at the hearing, we never accept the simple testimony that all the heirs have been named. If the attorney doesn't ask the questions to show that the list is, in fact, complete, I or my Clerk (if she is holding the hearing) do. [For example, as may be appropriate to a particular case: Did the decedent have any deceased children? Did the decedent have any other children by prior marriage or other relationship? Were there half brothers or sisters? Are there any deceased brothers or sisters? Are the decedents parents living? Did you name both paternal and maternal kin?]

One far too common mistake, occasionally even when an attorney is involved, is the belief that the heirs of a testator are the beneficiaries who inherit under the will. I've even had an attorney say, but Judge, that child doesn't get anything under the will; why should we notify him? Go figure!

Finally, in the hearings on petitions for the appointment of an administrator, we specifically inquire about any information concerning a will or an alleged will. [E.g, Are you certain that

the decedent had no will? Have you made a diligent search for a will? Are you aware that the decedent ever had a will?] At a recent hearing, when I asked similar such questions of the petitioner, her attorney said: Judge, there was a will, but we can't find the original; we just have a copy that was in his desk. The attorney was completely unaware that a copy of a will could be offered for probate if the evidence supported a rebuttal of the presumption of revocation. It may have made no real difference in that particular case, since the alleged will left the estate equally to the children, but it could have been otherwise! And, the daughter/petitioner even testified that the children all thought their father had a will, because he had told them that he did.

Yes, holding a hearing in every case is time consuming, but in many cases (about 15%), I avoid entering final orders and issuing Letters when the notice procedures have not been fully complied with or when an alleged intestate decedent may have died testate. Seems like a good practice to us. Even if the hearing consisted of the petitioner confirming the necessary facts to a Clerk before having the oath administered, most errors would be uncovered before the judge is asked to sign the final order.

So, THAT's why I do what I do, what I do!

Lets boogie!

The C.O.A.G. Governor's reception on June 26th from 5:30 until 7:00 P.M. at the Governor's mansion. For more information C.O.A.G. at 770-228-8461.

AND...From A.C.C.G.: County officers and magistrates paid pursuant to the statewide minimum salary statute will be entitled to an additional 3% Cost of living adjustment (COLA) effective January 1, 2001. A step-by-step procedure for calculating minimum salaries is being prepared by A.C.C.G. and will be distributed to county commissioner offices soon.

Profile

Mitchell County Probate Court Judge Robert C. Richardson

Judge Richardson was kind enough to answer the following questions about himself. And if you notice his wry wit shines through.

Name a Favorite Movie(s) you've seen more than once.

- It's a Wonderful Life
- A Christmas Story
- Black Sheep

Any Favorite book(s)?

Too many good ones out there, too many reasons to like them.

When and where were you born?

Jan. 31, 1958, Albany GA.

Did you have any pets as a child?

What kind? Yes, as a family. Dogs, horses, hamsters, hamsters, gerbils, and a woolly monkey.

Did you have any nicknames growing up? Yes.

Something about your teen years

people might not know: If people do not know about it, it probably should stay that way.

Tell us about your education: H.S.: Deerfield School, Albany Ga; College: Vanderbilt University, Nashville TN (undergrad), University of Georgia, Athens, Ga (JD) Graduated in 1976, 1980 and 1987 respectively.

What did you study? As an undergraduate, English and History.

Anything notable about your scholarly days? I picked up the equivalent of a



minor in Latin and completed the coursework for a Master's Degree in English Literature (pre1500) at UGA prior to going to Law School, but did not write my thesis. I had planned to do it during the summer between my 1st and 2nd years of law school, but ditched that idea when I got the opportunity to clerk the summer after my first year of law school for then Georgia Supreme Court Justice George T. Smith.

What was your first job? Halter breaking colts, cleaning stalls and sweeping stables.

What did you do before Probate? I had my own law practice and was a municipal court judge.

What did you want to be growing up? A doctor.

Do you have children? If so, how many and what age and gender are they? Yes. Four; 29, 28, 25, 24; boy, girl, boy, girl.

Do they have any special hobbies or interests? All like role playing games and old fashioned board games, the girls like to spin and knit, the boys, table top miniature war games.

Have you lost any family members to death? All of my ancestors.

If so, what was your relationship to them and how did their death affect you/your family? Many I did not know personally since they died long before I was born. I still miss my parents and my grandmother, however. It is not easy being the Old Folks, now.

Have you ever been married? To whom and for how long? Yes. Mary Lucinda Mitchell, since 12/18/1982.

Anything unusual about you and your spouse? Now you are getting a little too personal!

How did you and your spouse first meet? A blind date for Vanderbilt's homecoming our freshman year.

How about birth of children? Anything unusual you wish to share? Though less unusual than finding them in a cabbage patch or waiting for a large bird to bring them, I think birth of children is generally a good thing and I support it.

What do you like to do in your spare time?

I garden and raise sheep and cows. My wife and I judge competition bbq. I enjoy music and play bass in the worship band led by our county's State Court

Profile

Wayne County Probate Court Judge Tammy Thornton

Judge Thornton was kind enough to answer the following questions about herself.

Any Favorite book(s)?

The Bible.

When and where were you born?

Jesup, GA 7/12/1963.

Did you have any pets as a child?

What kind? Yes, a dog named Prissy.

Did you have any nicknames growing up? Polly.

What was your first job? Cropping Tobacco.

What did you do before Probate? Dental Assistant.

What did you want to be growing up? An RN.

Do you have children? If so, how many and what age and gender are they? Yes, 2. My daughter, Meah, is 27, a special Education teacher, certified in K-5 and Middle School. She is married and has a little boy named Boone who



will turn 2 in March. She also earned a black belt in Karate. My son, Josh, is 25 and works with the Recreation Department here in Wayne County. His hobbies include deer hunting, but duck hunting is his passion.

Have you lost any family members to death? If so, what was your relationship to them and how did their death affect you/your family? Yes. I lost my mother 24 years ago. She was only 52 and died from Cancer. That was life changing for me. I had a: 1 year old and a 3 year old and it was hard not having a mom. My daddy stepped up

and became my mom and dad. He was so good assuming both roles. He was diagnosed with Cancer in July 2016 and passed away on November 1, 2016. His passing has been very hard.

Losing both parents allows me to understand how emotional it is when families come in to Probate their loved ones Estate. I know how hard it is and emotions that play into it. I cry and pray for them. I really believe its hard to understand what a person is going through unless you have been there.

Have you ever been married? To whom and for how long? Anything unusual about you and your spouse? Yes, Deryl Thornton, for 30 ½years. We were high school sweet hearts.

How did you and your spouse first meet? I was standing at my locker in middle school. He walked by, took a double take, and the rest is history.

What do you like to do in your spare time? I love to work in my garden, boating, spending time with my family and grand baby.

Judge Robert C. Richardson Profile cont.

Judge at a Methodist Church. I have fun playing rpgs (role playing games) and miniature war games with my grown children. I also like cooking (and eating) and brewing my own beer.

Any close brushes with celebrities?

Paula Deen came up to my table and grabbed a piece of roast beef from my

plate while I was eating at her brother's restaurant one evening in Savannah at an ACCG function. After I recovered from my initial shock, we started talking, and when she found out that I was from Albany, she asked in her usual rather loud voice what high school I went to, thinking, I suppose, that we might have been acquainted (we

weren't). I, knowing that my mother did know her (I had seen Christmas cards from Ms. Deen in years past) but not thinking of the implication regarding Ms. Deen's age, responded that she may well have known my mother. It did not end well.

Probate Judges' Day at the Capitol

The Council of Probate Court Judges hosted Probate Judges' Day at the Capitol on January 25, 2017. Over fifty judges gathered at the Capitol for pictures with Governor Nathan Deal and Lieutenant Governor Casey Cagle, the State of the Judiciary presented by Chief Justice P. Harris Hines and our legislative luncheon, which was yet another tremendous opportunity for us to welcome our legislators, their legislative staff members and our colleagues of the judiciary.



New Directories to be distributed in 2017

Judge Danielle McRae of Upson County, Judge Tony Thompson of Candler County and Judge Darin McCoy of Evans County are working on the new directory of Judges for the Council. This will be Volume VIII of the Directory. The first pictorial directory was done in 1987. It was compiled by Committee Chair Judge Pat Hardaway of Columbia County, Judge Nancy K. Aspinwall of Liberty County, Judge Frances Y. Seckinger of Effingham County and Judge Dora C. Watson of Pickens County. If you have a copy it is, of course, a valued "collector's item"! The Directory committee plans to have the new edition ready to distribute at the Spring Training session.



Council Honored by the Stonewall Bar Association

The Stonewall Bar Association honored the Council of Probate Court Judges at their 22nd Annual Awards Dinner. The Council received special recognition for the way in which Georgia's probate court judges carried out their duties subsequent to the United States Supreme Court's ruling in *Obergefell v. Hodges*. The Honorable Jane Morrison of the State Court of Fulton County placed the Council's name in nomination for the award and ultimately, it was chosen as the honoree for the Conspicuous Service to the Stonewall Community Award. Judge Alice Padgett, the Council's president, accepted the award on the Council's behalf. In her remarks, Judge Padgett noted how it was a bit awkward to be honored for doing what judges are required to do by following the law. The 22nd Annual Dinner was held in the Egyptian Ballroom at the Fox Theatre.



Results from the Survey for those Judges Who Still Handle Elections in 2016

Submitted by Judge Judy Mullis, Lanier County Probate Court

Listed in Alphabetical order:

Baldwin
Bleckley
Calhoun
Camden
Chattahoochee
Chattooga
Clay
Colquitt
Dodge
Echols
Elbert
Evans
Gilmer
Glascock
Grady

Heard
Jasper
Jenkins
Lanier
Laurens
Miller
Monroe
Montgomery
*Oglethorpe
Pike
Pulaski
Quitman
Schley
Screven
Seminole
Taliaferro

Telfair
Trentlen
Warren
Wayne
Wheeler
White
Wilkes

* Oglethorpe County Commissioners has agreed to introduce legislation to create a Board.

- Candler County has introduced legislation to abolish the Board of Elections and return to the Probate Judge as Election Superintendent.



2016 New Judges Orientation class in Athens during the week of instruction conducted by the Institute of Continuing Judicial Education of Georgia and Probate Judges Training Council.

In Our Thoughts

Retired Judge Harold Blackmon, 81, of Haralson County Probate Court passed away on Sept. 23 2016. Judge Blackmon served for 24 years. He was born April 16, 1935, to the late George Byron “Bige” and Nellie Gertrude Powell Blackmon. His honorary pallbearers were his fellow Probate Court Judges.

Retired Probate **Judge James Callaway “Jim” Burton**, 75, passed away Wednesday, November 2, 2016, at the GA War Veterans Home in Augusta. Mr. Burton was born in Washington, and was the son of the late W. L. and Mary Callaway Burton. Jim was a Georgia Tech graduate. He returned to Washington to work in the family business in 1967. He ran for and was elected to the office of Wilkes County Probate Judge in 1987, and maintained

that office until his retirement in 2008.

William “Bill” Michael Gahring, 62, of Leesburg passed away on Sunday, December 11, 2016. Mr. Gahring was the devoted husband of Lee County Probate Judge Melanie Gahring, who was sworn-in prior to her husband’s death, which was one of his last wishes. Bill served as a dutiful employee to Terrell Contracting, Reeves Construction and for 27 years he worked at Oxford Construction Company. Bill, along with his wife, was a member of First United Methodist Church, where he served in several leadership roles and was a part of the church’s choir for a number of years. He was also active with the Kairos Prison Ministry and the Heart of Georgia Walk to Emmaus.

Caleb Steven Moore, 19, of Jefferson passed away on Wednesday, March 15, 2017. Caleb was the son of Mitchell Steven Moore and Jackson County Probate Judge Sherry Moore. Caleb was born in Athens and most recently worked at Wilson’s Leather & Polo. Caleb was extremely active in his extracurricular activities, as he ran track, participated in the Boy Scouts – where he earned the rank of Life Scout. Caleb was noted for his extreme curiosity and prodigious intellect. He loved to read and learn about history, more especially World War II. He was also known for his sense of style and the great interest he took in politics. Yet above all of his interests and loves, he truly loved and valued the love of his family.