

CNO REVIEW

July/August 2017



The Youngest Victims of Addiction

Ohio Sees Greater Need for CASA Volunteers
in Face of Opioid Epidemic (Story on p. 6)

About Court News Ohio

Court News Ohio is a service of the Office of Public Information of the Supreme Court of Ohio and Ohio Government Telecommunications. Court News Ohio includes a website (courtnewsohio.gov), a monthly publication (CNO Review), a television program (CNOTV), a Facebook page (facebook.com/courtnewsohio), a Twitter feed (@courtnewsohio), and a YouTube channel (youtube.com/CourtNewsOhioTV).

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Inside

the July/August Issue

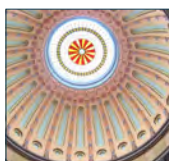


3 Cases

Court Affirms Woman's Death Penalty

4 Happening Now

New Ohio Judicial College Website Debuts



5 Legislative Digest

Compilation of Bills and Resolutions Introduced by the Ohio General Assembly of Interest to the Judicial Community



6 Cover Story

Ohio Sees Greater Need for CASA Volunteers in Face of Opioid Epidemic



10 The Agenda

Upcoming Events, Training Opportunities, and Conferences for Judges and Court Staff



11 Rule Amendment Summary

Supreme Court Adopts Military Spouse Attorney Rule

12 On the Bench

New 'On the Record' Podcast Spotlights Cuyahoga County Common Pleas Court

Cases

Visit courtnewsohio.gov for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

Supreme Court of Ohio

Court Affirms Woman's Death Penalty

The Supreme Court on May 30 affirmed the death-penalty sentence for Donna Roberts, who conspired to kill her ex-husband. It was the third time the Court considered her sentence. Twice before, the Court remanded her case to the trial court for further proceedings.

Writing for the Court majority, Justice **Terrence O'Donnell** explained that Roberts helped Nathaniel Jackson plan the murder while he was in prison on an unrelated charge, and she actively participated with Jackson in the killing.

On both of Robert's previous direct appeals, the Court affirmed her convictions, but vacated the death sentence and remanded the cases for resentencing.

Upon the trial judge's retirement and death, a new judge presided over the recent resentencing. Roberts sought to prevent the new judge from sentencing her to death or to require a new full-penalty-phase hearing. She argued that since the new judge didn't preside over the case or personally hear her 2007 allocution, he couldn't properly weigh the aggravating and mitigating circumstances.

The trial judge stated he carefully reviewed the entire record, including Roberts' statements and all exhibits, and announced he did not give any deference to the prior sentences. He then sentenced Roberts to death. The Supreme Court affirmed the trial judge's decision.

2014-0989. State v. Roberts
[Slip Opinion No. 2017-Ohio-2998](#)

Attorney Linked to State Treasury Scheme Disbarred

A Columbus attorney convicted in a felony bribery and kickback scheme at the Office of the Ohio Treasurer was permanently disbarred by the Court in a unanimous per curiam decision on June 15.

Mohammed Noure Alo was charged with conspiring with Amer Ahmad, former deputy state treasurer, and others to commit bribery, wire fraud, and money laundering after the federal government alleged Alo helped devise and participated in a scheme to use Ahmad's position to improperly secure lucrative public brokerage deals.

Alo pleaded guilty in 2013 to wire fraud and admitted to receiving more than \$123,000 for legal services he didn't perform. He was sentenced to 48 months in prison, three years of supervised release, and was required to forfeit the \$123,000.

The Court also levied an earlier interim default suspension for wide-ranging professional misconduct when Alo accepted retainers for 10 client matters that weren't part of the kickback scheme, and failed to perform the work or return the clients' money. The Lawyers' Fund for Client Protection has paid more than \$230,000 to Alo's former clients.

2015-2053. Disciplinary Counsel v. Alo
[Slip Opinion No. 2017-Ohio-4270](#)

Court of Appeals

Third District Rules Utility Pole Video Footage of Man's Garage Didn't Violate His Privacy Rights

Law enforcement's installation and operation of a video camera on a utility pole near a Lima man's residence didn't violate his right to privacy, and the evidence gathered based on footage from the camera was properly admitted in the trial court, the Third District Court of Appeals ruled on June 12. The appeals court also rejected the man's argument that evidence resulting from two GPS trackers placed on his vehicles should have been excluded at trial.

The Lima resident argued that video camera footage of the garage attached to his house was an illegal search because he had a reasonable expectation of privacy in that area. Quoting U.S. Supreme Court opinions, the Third District

noted that a person's reasonable expectation of privacy extends to the "curtilage" of the person's home – or the area that "harbors the 'intimate activity associated with the sanctity of a man's home and the privacies of life.'" However, a home's curtilage may not be protected when open to public view.

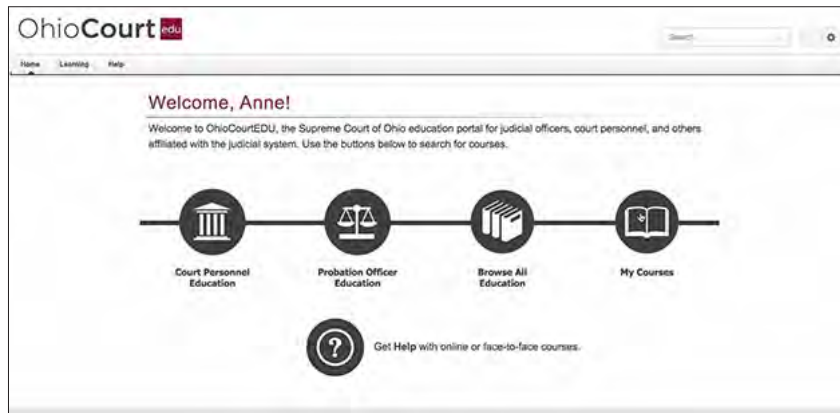
The Third District ruled that it didn't need to address whether the garage was within the curtilage of the man's home because the camera captured views plainly visible to passersby, including the perspective that a utility worker would have from the vantage point of the utility pole. Noting that the man didn't try to shield the view of his residence with a privacy fence, for example, the appeals court concluded that his Fourth Amendment rights weren't violated because he couldn't expect privacy in an area of his home that he knowingly exposed to the public

State v. Duvernay, [2017-Ohio-4219](#)

HappeningNow

News and Notes from Courthouses Across the Buckeye State

New Ohio Judicial College Website Debuts



It just got easier for partners in the Ohio judicial system to get the education they need.

The state Supreme Court's Judicial College is launching its website offering one-stop shopping to register and take online courses to help judges, guardians, and others complete their continuing legal or professional education.

"We're excited to say this is the portal for our education delivered through the Judicial College for all of our online education as well as our face-to-face events," said **Christopher Fields**, curriculum manager for the Ohio Judicial College.

The site is called OhioCourtEDU and so far online traffic has been heavy. Since it launched a couple weeks ago, more than 1,000 people have jumped online to get access.

"With this new system, we are going to be able to grow, as far as the number of courses we offer, the experience for those learners out there taking our courses – the judges, magistrates and court personnel," said **Christy Tull**, director of the Ohio Judicial College.

The old system required court personnel and court affiliates to access multiple sites for registration and training.

"Now this is done seamlessly through one system," Tull said.

Among those professionals receiving education from the Ohio Judicial College, judges are required to complete a minimum of 40 continuing legal education (CLE) hours every two years, of which 10 must come from the judicial college. Magistrates must complete a minimum of 24 CLE hours every two years. Guardians and probation officers also have mandatory education.

To access the new site, log onto the Supreme Court website: sc.ohio.gov/Boards/judCollege.

This new portal gives the state of Ohio an edge.

"We are pretty much leading the pack as to the courses we are doing," Tull concluded.

Nominations Solicited for Statewide Pro Bono Award

Each year, the Ohio State Bar Association presents the John and Ginny Elam Pro Bono Award at its annual meeting.

The award recognizes a lawyer's exceptional pro bono legal work in Ohio, which may consist of "pro bono representation necessary to make the system of justice available to all, support to organizations that provide pro bono representation to indigent clients, or time and skills donated to community, governmental, and other activities that promote the common good."

In addition to the public announcement at the meeting in August, the recipient will receive media recognition and be able to designate a 501(c)(3) organization to receive a \$5,000 grant from the Columbus Bar Foundation award fund.

Submit a Nomination

To nominate an individual, send a letter to the award selection committee chair:

Honorable Jeffrey E. Froelich
Second District Court
of Appeals of Ohio
41 N. Perry St.
P.O. Box 972
Dayton, Ohio 45422-2170

or email the nomination letter to Judge Froelich at:
froelichj@mcOhio.org

Nominations are due July 21 and should include a brief description of the nominee's qualifications and contact information for the nominee and nominator.



CNO Legislative Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

HB 49 - BIENNIAL BUDGET **Rep. Ryan Smith (R-Bidwell)**

To provide authorization and conditions for the operation of state programs.

STATUS: The conference committee report was passed June 28, 2017 by the House (59-40) and the Senate (24-8). The bill was signed by Governor John Kasich on June 30, but 47 items were vetoed.

HB 125 - COURT JURISDICTIONS **Rep. Hearcel Craig (D-Columbus)** **& Rep. Bill Seitz (R-Cincinnati)**

To specify the jurisdiction of municipal and county courts over municipal traffic ordinances and to establish requirements governing fines, fees, or other charges for traffic violations and infractions imposed by a municipal corporation that does not have the authority to establish a mayor's court.

STATUS: : Introduced in the House March 9, 2017, and referred to the House Criminal Justice Committee. Passed the House June 21, 2017 (89-0).

HB 259 - VIOLENCE DATABASE **Rep. Bill Seitz (R-Cincinnati)** **& Rep. Thomas West (D-Canton)**

To require the Attorney General to establish a database of persons who have committed an offense of violence at an A-1-A, A-1c, or D liquor permit premises and to provide access to the database to holders of those categories of liquor permits.

STATUS: Introduced in the House June 6, 2017, and referred to the House Criminal Justice Committee.

HB 260 - DRIVING PRIVILEGES **Rep. Jim Butler (R-Oakwood)** **& Rep. Emilia Sykes (D-Akron)**

To require a court to grant limited driving privileges to a

person in relation to a driver's license suspension under certain circumstances.

STATUS: Introduced in the House June 6, 2017, and referred to the House Transportation & Public Safety Committee.

HB 271 - ACCESSIBILITY LAWS **Rep. Robert McColley (R-Napoleon)** **& Rep. Jeffery Rezabek (R-Clayton)**

To authorize an alleged aggrieved party to provide a notice of an alleged accessibility law violation in advance of filing a civil action and to establish the circumstances under which an alleged aggrieved party is entitled to attorney's fees in a civil action based on the violation.

STATUS: Introduced in the House June 12, 2017, and referred to the House Civil Justice Committee.

SB 7 - PROTECTION ORDERS **Sen. Kevin Bacon (R-Minerva Park)** **& Sen. Gayle Manning (R-North Ridgeville)**

To provide that service of a protection order or consent agreement upon a person is not necessary for the person to be convicted of the offense of violating a protection order if the person had actual notice of the order or agreement and the person recklessly violated its terms.

STATUS: Introduced in the Senate Jan. 3, 2017. Passed the Senate March 7, 2017 (32-0). It was reported out of the House Criminal Justice Committee and a substitute bill was offered on May 16, 2017. Passed the House June 21, 2017 (86-2) and concurred upon by the Senate June 21, 2017 (33-0). The bill awaits the governor's consideration.

SB 159 - RECORD SEALING **Sen. Sandra Williams (D-Cleveland)**

To permit a person to apply for the sealing of the official records

Continued on p. 11.



The Youngest Victims of Addiction

Ohio Sees Greater Need for CASA Volunteers in Face of Opioid Epidemic

The tentacles of Ohio's opioid epidemic stretch beyond those in the throes of addiction. Not only do the latest statistics show that Ohio leads the nation in opioid overdose deaths, but the Public Children Services Association of Ohio notes an 11 percent increase in children in protective custody between 2000 and 2016.

Drug courts statewide are helping Ohioans take steps toward sobriety by providing treatment, monitoring, and accountability for offenders. CASA programs are also involved in protecting the best interests of abused or neglected children – affected by addicted parents – through training volunteers who speak on their behalf.

The need for volunteers has never been greater.

Court Appointed Special Advocates are citizen volunteers, trained as guardians ad litem by the Ohio Supreme Court, CASA, or a GAL provider approved by the local court. CASA volunteers investigate a child's social and emotional background, make recommendations to the

juvenile court regarding dispositions of cases, and monitor children until they no longer are involved in the court system. Several counties report that the number of volunteers needed to represent opiate-related cases involving children this year will far outpace last year's total.

Henry County Family Court Judge **Denise McColley** said the opioid problem in northwest Ohio is part of the reason Defiance and Williams counties joined Henry County's long-time existing CASA program. The judges have discussed expansion for several years, but "several things just fell into place" recently, she said.

Judge McColley said that 16 of the 20 new dependency or neglect cases filed in Henry County over the last year were related to opiate use of the parents. In one case, the great-grandmother has custody of the child because the mother, father, and grandmother are all involved with opioids.

"Up until two or three years ago, there would be one or two really awful cases where drugs were involved," she said. It's much more common now.

In Lucas County, there is such a dire need for volunteers that the Toledo Bar Association donated space from January through May in its monthly newsletter to the CASA program for recruitment of attorney advocates. The Toledo Bar Association Foundation awarded CASA a \$15,000 grant to conduct two days of training. New attorney advocates, who attended the training, were sworn into service May 26.

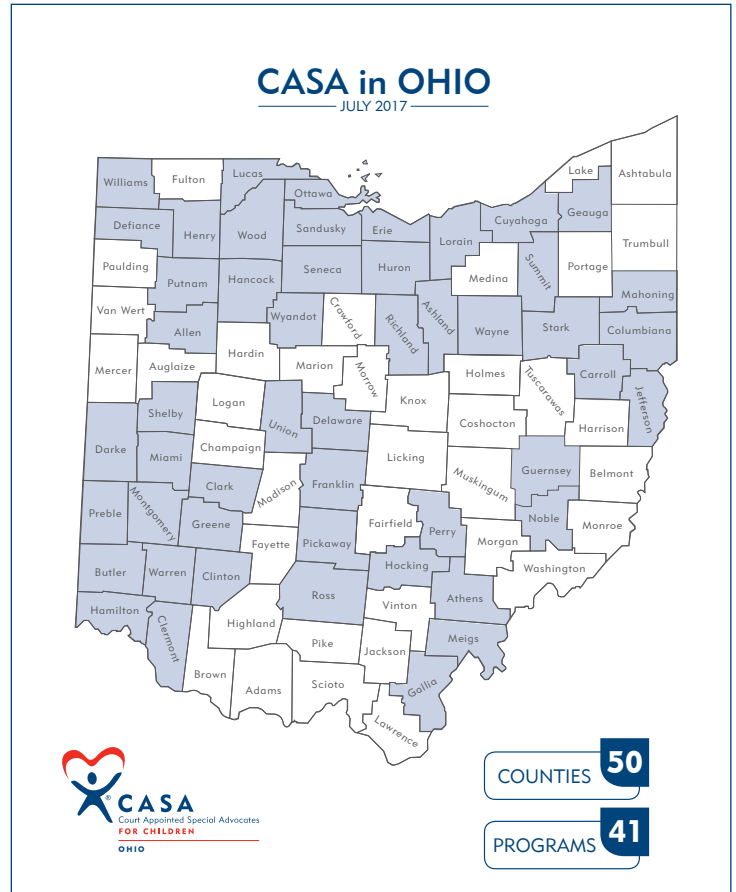
Ohio law requires a qualified GAL to be appointed to every abused or neglected child brought into the protection of the juvenile court system (*see box on p. 9*). The GAL can be a CASA volunteer or a paid attorney.

At the statewide level, Ohio CASA Executive Director **Doug Stephens** said demand is increasing, yet the number of volunteers is not keeping pace.

CASA's 41 programs covering 50 counties served 8,753 children in 2016, about 1,500 more than 2012. Meanwhile, the number of volunteers over that span remained relatively steady at 2,162, rising by 68.

Local CASA program data also reflect an increasing opioid-related caseload.

- 1 Seventy-seven percent of Shelby County's 2017 abuse and neglect cases are heroin-related, compared with 56 percent in 2016. Even more disturbing, in none of these cases (10) has the child reunified with the parent.
- 2 Noble County reports that 10 children in March 2016 were removed from their homes, with four cases due to parental drug abuse. A year later, 41 children were removed with 36 cases due to parental drug abuse.
- 3 In Miami County, the CASA/GAL program tracked 66 new child abuse and neglect victims in 2016. Twenty-six of those children had one or more caregivers addicted to heroin.



CASA's 41 programs serve more than 8,700 children.

Despite the grim statistics, there could be promising news ahead. Besides the recently added Defiance and Williams counties, Stephens said Ross County is in contract with the state organization, allowing funding to flow so it can begin offering services. Scioto County is in discussion to establish a program. Stephens noted the irony that one of the hardest-hit areas of the state, southern Ohio, has eight counties without CASA programs.

ABOUT CASA VOLUNTEERS

CASA volunteers work by judicial appointment. They are assigned to a child who is the subject of a court case alleging abuse or neglect, and are asked to help determine the living arrangement that is in the child's best interest.

The process involves the following duties ►►



Investigating the circumstances behind a child's placement in foster care.

Interviewing parents, siblings, relatives, foster parents, doctors, and teachers.

“In some of the counties that need it the most, there are the least amount of resources,” Stephens said.

In addition, at the time *CNO Review* was published in early July, Sen. **Peggy Lehner** offered an amendment to the Fiscal Year 2018-19 budget bill to earmark \$300,000 in federal funds to help CASA programs hit hard by the opioid epidemic. The new biennial budget began July 1.

Other federal funding comes through the Supreme Court courtesy of federal Court Improvement Program for CASA to start new programs in new counties.

Even with more CASA programs and volunteers coming on board, Stephens said the abuse and neglect cases involving opioids will continue to be more complex than typical cases. Children aren’t heading home anytime soon because their parents are unable to get sober.

“CASA volunteers work a case longer and handle fewer cases because of it,” he said. “It feeds on itself.” Burnout is also a worry with volunteers.

Judge McColley said the challenges of opioid-related abuse and neglect cases include getting parents into treatment and ensuring the parent is clean before placement.

“You want them to be with the child, but there really has to be a long period of stability,” she said.

That long-term stability could be out of reach for many. The Columbus *Dispatch* quoted the Ohio Department of Mental Health and Addiction Services medical director about this aspect for a heroin story last year. “Not until you reach a year of sobriety do you have a 50-50 chance of long-term recovery,” Dr. Mark Hurst told the newspaper.

Despite all the challenges associated with these cases, Stephens said the relationship built

Sup.R. 48 | Guardians ad Litem

(E) Training requirements. In order to serve as a guardian ad litem, an applicant shall have, at a minimum, the following training:

(1) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.

(2) The pre-service training course must be the six-hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association’s pre-service training program, or with prior approval of the appointing court, be a course at least six hours in length that covers the topic areas in division (E) (3).

between a CASA volunteer and a child, which could span several years, is one of the things that appeals to volunteers. “They stick with the kid,” he said.

With more than 2,000 volunteers in more Ohio counties than not, CASA programs try to keep up with the caseload, but, more important, try and protect the rights of children affected by opioids.

For more information about becoming a CASA volunteer, visit www.ohiocasa.org.



Visiting the child multiple times in various settings.

Identifying resources for the child and helping to ensure the child obtains needed services.



Reviewing relevant facts of the case.

Monitoring and supporting the child as the court case progresses.



Writing and submitting a report to the court recommending placement and treatment options that are in the child’s best interest.

The Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Ohio Court EDU
(Formerly Judicial eCademy)
<https://sco.csod.com/client/sco/default.aspx>

July 5

**Guardian ad Litem
Continuing Education
Course: The GAL Interview**
Guardians ad Litem
Athens
12:30 - 4 p.m.

July 6

**Probation Officer
Training Program**
Probation Officers
Dayton

July 11

**Probation Officer
Training Program**
Probation Officers
Perrysburg

July 12

**Guardian ad Litem
Continuing Education
Course: Adolescent
Psychiatric Disorders**
Guardians ad Litem
Columbus
8:30 a.m. - Noon OR 1 - 4:30 p.m.

July 13

**Fundamentals of Adult
Guardianship BROADCAST**
Adult Guardians
Broadcast to various Ohio sites

July 18

Probation Officer Training
Program Probation Officers
Columbus

July 25

Probation Officer Training
Probation Officers
Akron

July 28

**Court Security Officers
Unit 2: Fundamentals**
Court Security Court
Personnel
Dayton

Aug. 1

Probation Officer Training
Program Probation Officers
Dayton

Aug. 3

**Court Security Officers
Unit 4: Communication**
Court Personnel
Cincinnati

**Certified Court Managers
(CCM) Seminar**
Certified Court Managers
Columbus

Aug. 4

Supervisor Series
Court Personnel
Columbus

Aug. 10

Judicial Candidates Seminar
Judicial Candidates
Columbus
1:30 - 3:30 p.m.

Aug. 15

Probation Officer Training
Program Probation Officers
Akron

Aug. 16

**Guardian ad Litem
Continuing Education
Course: Psychiatric
Disorders**
Guardians ad Litem
Dayton
12:30 - 4 p.m.

Aug. 17

**Adult Guardianship
Continuing Education
Course: Medications
& Medical Advocacy
BROADCAST**
Adult Guardians
Broadcast to various
Ohio sites
8:45 a.m. - Noon
OR 1 - 4:15 p.m.

Aug. 18

**Managing Mentally Ill
Youth on Probation**
Probation Officers
Columbus

Aug. 22

Probation Officer Training
Program Probation Officers
Columbus

Aug. 31

**Ohio Court Reporter's
Course**
Court Personnel
Columbus

Court Services Training
sc.ohio.gov/JCS/courtSvcs

July 10 & 11

Basic Mediation
Columbus

July 14

**Advanced Parenting
Coordination Training**
Columbus

July 14

**Parenting Coordination
Roundtable In-Person
Meeting**
11:30 a.m. - 12:30 p.m.
Columbus

**Introduction to Court
Interpreting
& Interpreter Ethics**
Cleveland

Rule Amendment Summary

A summary of select significant rule amendments proposed or enacted by the Ohio Supreme Court

Military Spouses

The Court adopted amendments that enable an attorney spouse of an active duty member of the U.S. military temporarily stationed in Ohio to be admitted temporarily to the practice law under certain conditions. The amendments took effect July 1. Changes to the Rules for the Government of the Bar of Ohio outline the eligibility and application requirements, the approval process, and the limitations of the designation. On an interim basis, the Court adopted amendments to account for military spouses in Ohio seeking to practice law on a temporary basis. As part of the adoption of the final amendments, the Court repealed the temporary amendments.

LEGISLATIVE DIGEST Continued from p. 5.

pertaining to a case in which the person was convicted of an offense for which the person is granted a pardon.

STATUS: Introduced in the Senate June 1, 2017, and referred to the Senate Judiciary Committee.

SB 160 - LICENSE FEES Sen. Sandra Williams (D-Cleveland)

To allow a court to authorize completion of a community service program in lieu of payment of driver's license reinstatement fees when the court determines that an offender cannot reasonably pay the fees.

STATUS: Introduced in the Senate June 1, 2017, and referred to the Senate Local Government, Public Safety & Veterans Affairs Committee.

July 15

**Court Interpretation
Legal
Procedure &
Terminology**
Cleveland

Aug. 11 & 12

Modes of Interpretation
Exam Candidates
Application Required
Columbus

Aug. 16

**Parenting Coordination
Roundtable**
Teleconference

Court Roundtables

[sc.ohio.gov/JCS/
roundtables.pdf](http://sc.ohio.gov/JCS/roundtables.pdf)

NOTE: All meetings are at the Thomas J. Moyer Ohio Judicial Center in Columbus

July 21

**Probate Court
Magistrates**
Urban Courts

Aug. 1

Common Pleas Judges
Midsized & Rural Courts

Aug. 3

Municipal/County Clerks
All Counties

Aug. 10

**General Division
Administrators**
Midsized and Rural
Courts

Aug. 24

**Court of Appeals
Administrators**
All Districts

Supreme Court
of Ohio
sc.ohio.gov

July 4

Independence Day
Court offices will be
closed

July 25 – 27

July 2017 Bar Exam

Aug. 15

**Late Application
Deadline to Register
as a Candidate for the
February 2018 Bar Exam**

Aug. 31

**State of the Judiciary
Address**
Columbus

Sept. 4

Labor Day
Court offices will
be closed

Conferences

July 17 - 19

**Association of
Municipal/County
Judges of Ohio Judges
(AMCJO) Summer
Conference**
Member Judges
Huron

Aug. 30

**Ohio Courts of Appeals
Judges Association
(OCAJA) Conference**
Member Judges
Columbus

Aug. 31 & Sept. 1

**Ohio Judicial
Conference
Annual Meeting**
Member Judges
Columbus
ohiojudges.org

'On The Record'

New Podcast Spotlights Cuyahoga County Common Pleas Court



The Cuyahoga County Common Pleas Court now has a regular podcast available for streaming and downloading on the court's website.

The first of its kind in Ohio, "On The Record" provides a monthly, in-depth look at programs and operations

in the court's general division. The first episode features Administrative and Presiding Judge **John J. Russo's** overview of the court and what the job of a judge entails.

"Podcasts are so popular that we thought this would be a good way to reach more people," said Judge Russo. "This is something that people can listen to while they're in the car, on the treadmill, or working at their desks."

Future episodes this summer will feature Judge **Hollie Gallagher's** discussion of the Mental Health and Developmental Disabilities docket, and Judge **David Matia** will go in-depth on drug courts and what he thinks should be done to combat the opioid epidemic.

"I think this is a great opportunity to tell the public more about what our Court does," said Court Administrator **Greg Popovich**. "A lot of important work is being done by our departments and employees, and we look forward to profiling some of them in our podcasts."

"On The Record" is available via the court's [website](#) and on [iTunes](#).

Governor Signs Bill into Law Creating Perry County Municipal Court

Perry County voters will cast ballots in the November general election for the first Perry County Municipal Court judge, as Gov. **John Kasich** signed into law on June 13 a bill creating the court.

Sponsored by Sen. **Jay Hottinger**, the law transforms the current county court into a municipal court as of Jan. 1, 2018. Also on that date, the current part-time judgeship serving the county court will become a full-time judgeship serving the municipal court. Judge **Dean L. Wilson** holds the office now.

Substitute Senate Bill 25 also designates the Perry County Clerk of Courts as the clerk of the new municipal court.

Municipal court elections are held in odd-numbered years. All Ohio judges serve six-year terms.

Judicial Appointments

Gov. John Kasich recently appointed judges to courts across Ohio



Jason T. Wells

Summit County Common Pleas Court

Jason T. Wells began serving as a judge on

the Summit County Common Pleas Court on June 27. He replaces Judge **Lynne S. Callahan**, who was elected to the Ninth District Court of Appeals. Wells must win in the November 2018 general election to retain the seat for the unexpired term ending Jan. 2, 2021.

Wells received his bachelor's and law degrees from University of Akron. He was admitted to the practice of law in Ohio on Nov. 18, 2002. He is a retired captain of the Ohio National Guard and formerly served as a private attorney where he helped establish Summit County's Valor Court for veterans. Wells is a member of the Akron Bar Association.



Todd M. McKenney

Barberton Municipal Court

Todd M. McKenney began serving as a judge on the Barberton Municipal

Court on June 19.

McKenney replaces Judge **Jill Flagg Lanzinger**, who was appointed to the Summit County Common Pleas Court. He must win in the November 2017 general election to retain the seat for the full six-year term commencing Jan. 1, 2018.

McKenney received his bachelor's degree from Hiram College and his law degree from Ohio State University. He most recently served as the magistrate for the Summit County Common Pleas Court. He was admitted to the practice of law in Ohio on Nov. 6, 1989. McKenney is a member of the Akron Bar Association, the Green Opiate Task Force, the Magic City Kiwanis, and Faithful Servants.