

The Review



Volume 3, Issue 3

THE APPEALS COURT REACHES A MILESTONE



With the release of *Commonwealth v. Gustavo Gonzalez Santos* on July 9, 2021, the Office of the Reporter of Decisions began Volume 100 of the Appeals Court Reports. By way of comparison, the SJC reached Volume 100 in October of 1868, just over sixty-four years after its first opinion appeared in Volume 1 in September 1804. It has taken the Appeals court approximately 49 years to achieve this milestone.

APPEALS COURT WELCOMES JUSTICE MAUREEN WALSH

Born in Boston and raised in Needham, Justice Walsh graduated from the University of Massachusetts and the Western New England University School of Law, cum laude, and was a Note Editor of the Law Review. She



began her career as a law clerk for U. S. District Court Judge Michael A. Ponsor in 1991. She then went on to become an assistant district attorney for the Northwestern district attorney's office from 1994 through 1998. She was appointed to the Parole Board in 1998, eventually serving as chairwoman until she was appointed as an associate justice of the Eastern Hampshire District Court in 2008 by then-Governor Deval Patrick.

Justice Walsh has served as the presiding justice of the Holyoke District Court and most recently served as the presiding justice of the Northampton District Court, as well as the Regional Administrative Justice for Region 6 of the District Court, which encompasses all four western Massachusetts counties. Justice Walsh joined the Appeals Court in May.

EMERGING ADULT COURT OF HOPE - Hampden's County's Specialty Court

A recent Boston Globe article lauded Hampden County's Emerging Adult Court of Hope (EACH), a specialty court presided over by then-District Court Judge Maureen Walsh, until her appointment as an Associate Justice to the Massachusetts Appeals Court in May 2021. EACH was devised by the county's district attorney, Anthony Gulluni, in partnership with the Springfield District Court and Roca, an organization that engages young adults, police, and the systems at the center of urban violence. EACH is one of only a few such courts nationwide to focus on high-risk young adults, typically aged 18 to 25 years old. Even though many "age out" of crime by age 25, the collateral consequences of criminal convictions will last a lifetime. Prior to these last few decades, Walsh said, "We didn't recognize [the differences in the] development of the adolescent brain. As the science developed, so did the District Attorney," noting that "if [we] don't intervene," these young adults will be doing "a life sentence on the installment plan."

After years of planning, and a trip to San Francisco to observe that city's model, EACH began with its first participant in March 2020. Although progress slowed during the pandemic, EACH now has six male participants. The hope is to expand the program to include up to 25 men and women. "Specialty courts have shown that the judge having relationships with the participants really makes them better people," according to Walsh's statement in the Globe. She explained that the EACH program "provides a path for them," with a "focus on individual attention," in light of the trauma that many have experienced.

Before joining the program, EACH participants must plead guilty to their charges -- as Walsh states, "It was important to the Trial Court that [the program] be postdisposition." If the participants fail to complete the requirements, their cases return to the adult criminal justice system, where they could again face incarceration. If they succeed, however, the district attorney and the judge will work to ensure that their criminal records are cleared not only of the most recent charges, but of all prior convictions. As stated in the Globe, "We know the barrier that a felony conviction serves for educational opportunities, work opportunities, government assistance, whatever it might be," per Gulluni, "so when our young people get through the program, we are going to work with the court to expunge that person's record." EACH is designed to be completed in 18 to 24 months, and focuses on building relationships with program coordinators, developing dreams and career goals, and, later, crafting their individual service plan. The last phase is a gradual reduction in supervision and program requirements, with a focus on career or vocation, as Walsh explained. All the requirements and expectations are tailored to the individual --

weekly responsibilities could include substance abuse counseling, therapy (individual and/or "circles"), career training, and cognitive behavioral theory workshops focused on solidifying healthy communication and coping mechanisms. Walsh said that an important goal for some is to get "out of the cycle of negative thinking."

As stated in the Globe article, the program implements a tough love approach, with praise for good behavior and consequences for not following the rules, e.g., requiring community service or writing an essay. Walsh even has "returned" participants to custody for a period of time when they did not fulfill their responsibilities. She adds, there were "immediate consequences," there was no "lag time," only the hope that the participant would consider: "Is this how [they] want[] [their] life to go?"

Earlier this summer, Walsh and others from the EACH program went to a participant's high school graduation -- he was the first in his family to graduate from high school, he is twenty-three years old, and "he needs that diploma to get to the next step in his life." Walsh and some of the team also have toured community colleges with participants, so they could "see what could be." As she recalls, fondly it seemed, "It is healthy to realize that, with effort and programs, people can change." - *Authored by Attorney Lynn S. Muster*

Lynn S. Muster

FIRST MONDAY "Appellate Practice Update" FEATURES APPEALS COURT JUDGES AND ASSISTANT CLERK

On Monday, May 3, 2021, the Worcester County Bar Association hosted on the Zoom platform an event for its members on appellate practice. Part of the WCBA's First Monday Educational Series, the discussion featured Appeals Court Justices James R. Lemire and Justice Francis R. Fecteau (ret.), and Assistant Clerk Patricia Malone. After Superior Court Judge Daniel Wrenn introduced the panel, Justice Fecteau (ret.) moderated the discussion, which updated practices and procedures in appellate advocacy at the Massachusetts Appeals Court.



About fifty participants logged onto the lunchtime panel, the last First Monday event of the 2020-2021 court year. Justice Fecteau (ret.) began by highlighting some of the history of the Appeals Court -- its creation, the number of Justices and sittings, and the differences between argument and nonargument cases. He reminded the audience of some advice a former Chief Justice had provided to attorneys: given the standard of review by the appellate courts, the best strategy for winning on appeal is to win at trial. Justice Lemire explained how a panel decides to publish a case, e.g., when the case has a new or novel issue of law, noting that cases are not published when they deal with "established areas of law." He also told the attendees that when the Justices interrupt counsel at oral argument, they do not mean to "throw them off"; with time so limited, the Justices may need to hear counsel on other topics. Justice Lemire recommended, therefore, that at oral argument, counsel start with their "stronger" arguments.

Malone talked about the seamless transition in the Clerk's Office when the pandemic hit because e-filing had already been "well underway." She mentioned that, although the number of filings has decreased since March of 2020, the filed cases seem more complicated, especially in light of the added pandemic issues. Malone also discussed the changes in the Rules of Appellate Procedure, which came about as a result of "years of work," and intended to "streamline" the process for litigants and attorneys, i.e., to increase access to justice. - *Authored by Attorney Lynn S. Muster*

UNCONVENTIONAL PATHS TO THE BENCH

On April 9, 2021, Justice Amy L. Blake appeared as one of three judges on a panel hosted by New England Law / Boston, and entitled Unconventional Paths to the Bench. She appeared with Housing Court Judge MaryLou Muirhead and Boston Municipal Court Judge Catherine Ham. Some fifty-plus attendees, mostly NELB students and alumni, participated in the Zoom event, including then NELB President/CEO/Dean, Scott Brown.



Justice Blake spoke of her start in the profession as a prosecutor calling it "satisfying work." When she realized she needed to earn a bit more money, it was recommended to her that she try handling divorce clients -- and she "loved" those cases. Her niche was high asset disputes; through those lawsuits, she discovered the economics of divorce are like a puzzle that she enjoyed solving. After some years doing this work, moving up to partner at her law firm, she realized that, as a lawyer, she could only help the person who hired her. "Being a judge extends that reach," she explained. Then-Governor Deval Patrick appointed her to be a Probate and Family Court judge in 2008. Once on the bench, she was able to deliver justice in whatever way was necessary in each of the communities in Essex County that she served. In 2014, Justice Blake was appointed to the Appeals Court, which she told the attendees that she "loves," that it is "like law school on steroids." As she relayed, every time she opens a case, there are new facts to untangle.

Justice Vickie Henry, "dragged" into the conversation as an attendee advised the participants to keep at it, even when the law seems difficult: "Everything is hard until it's easy." Justice Blake advised the attendees to also have outside interests and, following her own advice, teaches Domestic Violence at NELB, overlapping her family law experience with criminal law. Justice Blake particularly enjoys the students at NELB, stating, they question her, and that "keeps [her] young." - *Authored by Attorney Lynn S. Muster*



APPEALS COURT CONDUCTS FIRST IN- PERSON SITTING SINCE MARCH, 2020

Oral Arguments had not been conducted in-person since March of last year. But in July, 2021, the Appeals Court held two oral argument panels in person at the John Adams Courthouse. The oral argument sessions were open to the public. Numerous safety protocols were followed including, disinfecting between arguments, social distancing and mask wearing.

The Appeals Court has resumed in-person arguments for its September sittings and continues to employ the above safety protocols.





MASSACHUSETTS APPEALS COURT

John Adams Courthouse
One Pemberton Square
Boston, MA 02108
appealscourt@jud.state.ma.us

Visit our Website