

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

Court Review: The Journal of the American
Judges Association

American Judges Association

2019

Editor's Note Vol. 55, No. 3

David Dreyer

Follow this and additional works at: <https://digitalcommons.unl.edu/ajacourtreview>

This Article is brought to you for free and open access by the American Judges Association at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Court Review: The Journal of the American Judges Association by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

Court Review

THE JOURNAL OF THE AMERICAN JUDGES ASSOCIATION

Volume 55, Issue 3

2019

EDITOR'S NOTE

Have you heard about one of the proposals to change the U.S. Supreme Court? A current presidential candidate seeks to “depoliticize” the Court by enlarging it to 10 justices appointed as before and adding 5 more chosen by the unanimous vote of the other 10. As the Court becomes more and more the focus of public and political speculation, our annual case round-ups become more beneficial for judges. We are pleased to feature our U.S. Supreme Court Civil Case Review, Civil Cases in the Supreme Court’s October 2018 Term from Professor Todd Pettys of the University of Iowa College of Law. His insightful account is extremely useful to ground our comprehension of what actually took place this past term without media sensationalism. Many important and interesting issues come out of each U.S. Supreme Court term, and Professor Pettys’s guide is crucial to learning and understanding the full gamut.

Presidential candidates are not the only ones involved with the issue of judicial selection. We have argued about how to decide who gets to be a judge since the republic began and before. Some favor choosing judges only through election by the people. Some claim judges should only be picked by some form of appointment, or “merit selection.” Still others prefer various versions of these systems. It is a debate without a winner, it seems. Thus, the arrival of a new and thoughtful book is welcome. Professor Charles Gardner Geyh of the Indiana University McKinney School of Law seeks to examine the debate itself as much the merits of each side. In this issue, we feature a lively piece on “Who Is to Judge?” by combining an introductory review with a central Q&A with the author. All in all, it informs and refreshes our thinking on the “elected v. appointed” standoff, and looks forward to new ways of managing this important issue.

Ever wonder why so many criminal convictions are later overturned by new evidence, even when the evidence included eyewitness identification? The fallibility of eyewitness ID has become an increasingly controversial topic in criminal courts and among legal analysts. Professor Monica Miller of the University of Nevada, Reno examined the most significant recent cases and data regarding eyewitness ID for this issue in “Do Judges’ Instructions About Eyewitnesses Really Work?: A 2019 Update.” Her cogent analysis will help all judges become knowledgeable about the problem, refresh our understanding of the law in this area, and lay a good foundation as it continues to develop.

Both American judges and our Canadian judicial audience will once again benefit in this issue from our regular Canadian contributor, Judge Wayne Gorman’s article, “Refining the Judicial Lexicon: The Supreme Court of Canada Refines the Defences of Consent and Mistaken Belief in Consent”, is an excellent explanation of the notable factors of consent in sex-crime cases in Canadian law. It is sure to draw comparisons with American law and allow some qualitative assistance regarding this complicated area.

Thanks for your continued support.—David Dreyer



Court Review, the quarterly journal of the American Judges Association, invites the submission of unsolicited, original articles, essays, and book reviews. *Court Review* seeks to provide practical, useful information to the working judges of the United States and Canada. In each issue, we hope to provide information that will be of use to judges in their everyday work, whether in highlighting new procedures or methods of trial, court, or case management, providing substantive information regarding an area of law likely to be encountered by many judges, or by providing background information (such as psychology or other social science research) that can be used by judges in their work. Guidelines for the submission of manuscripts for *Court Review* are set forth on page 114 of this issue. *Court Review* reserves the right to edit, condense, or reject material submitted for publication.

Advertising: *Court Review* accepts advertising for products and services of interest to judges. For information, contact Shelley Rockwell at (757) 259-1841.

The cover photo is the Old Burke County Courthouse in Morganton, North Carolina. It was built in 1833-1835 and was put into use in 1837. It is a two-story, square stone building in the Classical Revival style featuring an elaborate cupola added during a remodeling in 1901. It was listed on the National Register of Historic Places in 1970. Photo by Michael Fairchild.

©2019, American Judges Association, printed in the United States. *Court Review* is published quarterly by the American Judges Association (AJA). AJA members receive a subscription to *Court Review*. Non-member subscriptions are available for \$35 per volume (four issues per volume). Subscriptions are terminable at the end of any volume upon notice given to the publisher. Prices are subject to change without notice. Second-class postage paid at Williamsburg, Virginia, and additional mailing offices. Address all correspondence about subscriptions, undeliverable copies, and change of address to Association Services, National Center for State Courts, Williamsburg, Virginia 23185-4147. Points of view or opinions expressed in *Court Review* are those of the authors and do not necessarily represent the positions of the National Center for State Courts or the American Judges Association. ISSN: 0011-0647.

Cite as: 55 Ct. Rev. ____ (2019).