



Maryland | Delaware | DC Press Association
P.O. Box 26214 | Baltimore, MD 21210
443-768-3281 | rsnyder@mddcpres.com
www.mddcpres.com

To: Judiciary Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: January 22, 2020

Re: **HB 75 - SUPPORT**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, the Baltimore Times, and online-only publications such as MarylandReporter.com and Baltimore Brew.

The Press Association is pleased to support HB 75, which would create more transparency in the court system by requiring the clerk of courts to identify within the published case information in Case Search the judge or magistrate who presided over the hearing or took judicial action .

This bill is particularly timely, in the wake of an October decision by Baltimore City Circuit court Judge Lawrence Fletcher-Hill. The judge ruled that the "key" the Administrative Office of the Courts uses to code judges' names in Case Search was subject to Maryland's Public Information Act ("Judiciary ordered to turn over "key" to judge names in Case Search," The Daily Record, October 31, 2019). This bill takes the logical next step by requiring the clerk of court to identify the judge within Case Search. Including the judges' names in court records is customary in most states, including Virginia, Delaware and Pennsylvania.

Using codes to identify judges makes it more difficult for the public to understand both the sentencing trends and specific actions of judges within the court system. Access to this type of information allows for clearer analysis by the public and journalists to identify trends and the efficacy of new rules.

The Press Association urges a favorable report.

FACTS

MDDC PRESS

MATTER

**We believe a strong news media is
central to a strong and open society.**

Read local news from around the region at www.mddcnews.com

Judiciary ordered to turn over 'key' to judge names in Case Search

By: Heather Cobun Daily Record Legal Affairs Writer October 31, 2019

The Maryland Administrative Office of the Courts must disclose a key to identify District Court judges in the public Case Search database, a Baltimore judge ordered Wednesday.

Judges' names are not displayed in District Court cases in the database but rather are represented by a three-character code. The Abell Foundation filed a Maryland Public Information Act request for the key to assist the group in tracking individual judges' bail determinations in Baltimore.

The request was denied because the Administrative Office of the Courts (AOC) classified the document as an administrative record. The Maryland Rules say the custodian of a record "shall deny inspection" if the record is prepared by or for a judge or other judicial personnel, is purely administrative in nature — but not a local rule, policy or directive — and is not filed with the clerk or required to be.

Baltimore City Circuit Judge Lawrence Fletcher-Hill ruled that the key is "purely administrative" but only because of a policy or directive to use the codes. He determined the MPIA did not require the request be denied.

The director of administrative services for the District Court of Maryland explained in an affidavit that judges joining the District Court bench are assigned a unique three-digit alphanumeric code that is used by clerks who input information into the computer system.

The codes are used "to efficiently input information about docket events into the mainframe system," Polly Harding said in the affidavit. The codes were in use before the Case Search system was created.

Pointing out that the judiciary posts explanations on its website of other shorthand codes used in docketing, Fletcher-Hill said there was "no basis asserted to distinguish between that operational policy, practice, or directive and the non-disclosure of the edit table providing a very similar key to identify individual District Court judges."

Fletcher-Hill granted summary judgment for the plaintiffs and allowed the AOC 20 days to turn over the record or seek a stay of the order to allow for an appeal.

"We're all delighted," attorney Benjamin Rosenberg said Thursday. "It's the right result for everybody, frankly. It's a bad rule to the extent that it has any meaning at all and there's no reason for it."

Rosenberg, a partner at Rosenberg Martin Greenberg LLP in Baltimore, said he has not gotten any word on whether the courts will appeal. A spokeswoman for the Maryland Office of the Attorney General, which represented the AOC, said attorneys were still reviewing the opinion Thursday.

'Fundamental access'

The Abell Foundation made "broad arguments about access to the courts and to court records" in its filings with the court and at oral arguments last week, according to the opinion.

But Fletcher-Hill said though those principles “inform interpretation of the applicable statutes and rules,” the case does not deal with “fundamental access to judicial proceedings” because no public courtroom has been closed and no docket or file has been sealed. District Court proceedings “are generally open to the public” and judges are identified by name in dockets maintained at various courthouses.

“Plaintiff is focused in this case on the ease of access to judicial identifying information through Case Search,” Fletcher-Hill determined. “This Court does not diminish the value of that convenience, but it is a matter of convenience rather than fundamental access.”

Del. Robin Grammer, R-Baltimore County, who sponsored legislation in the General Assembly this year to mandate the inclusion of judge names in Case Search, said Thursday that the lawsuit ended with the proper result. He plans to reintroduce the issue in the upcoming legislative session.

“You could tell by the way that the opinion came out that this is a wonky situation,” he said. “What you’re seeing is the system fighting to not make that information public.”

Grammer said he does see Case Search data as an issue of fundamental access to courts.

“This isn’t 1920,” he said. “The world has changed. Access to the court means something different.”

Opinions like Fletcher-Hill’s provide an opportunity to ask the judiciary to come to the table and discuss policy issues, Grammer said.

“This is not a ‘let’s fight this out in the courts’ issue,” he said. “This is not an issue that the judicial Rules Committee should try to figure out to protect itself. This is a clear public policy matter that should be discussed by the legislature.”

Rosenberg said the ruling applies only to the Abell Foundation’s MPIA request but so long as the defendants do not appeal, there should not be an issue in the future.

“I would think that an agency like the AOC really (is) a principled agency, and if this ruling applies to one request then it would apply to every request and so there’s no reason to make it any more difficult,” he said.

The case is *Abell Foundation v. Administrative Office of the Courts et al.*, 24C18005684.