



Supreme Court of Kentucky

Chambers, State Capitol
Frankfort, Kentucky 40601
502-564-4162

John D. Minton, Jr.
Chief Justice of Kentucky

www.courts.ky.gov

Opening Statement

Chief Justice John D. Minton Jr.
Testimony before the Interim Joint Committee on the Judiciary
Friday, October 2, 2009, 10 a.m.
Manchester, Kentucky

Chairman Stivers, Chairman Tilley, Members of the Judiciary Committee and Guests:

I appreciate the opportunity to meet with you once again to discuss the state of Kentucky courts.

It's a special pleasure for me to return to Manchester, Mr. Chairman. Manchester is known to members of the Bowling Green bar, of which I consider myself a member, as the home of Ray Buck White and the late James Hackett Lucas.

Since you have the home-court advantage today, Chairman Stivers, I made sure to bring along an esteemed entourage to back me up. I'd like to introduce:

- **Sara Walter Combs**, Stanton, chief judge of the Kentucky Court of Appeals
- **Larry Thompson**, Pikeville, Family Court judge for the 35th Judicial Circuit and president of the Kentucky Circuit Judges Association
- **Thomas Clark**, Lexington, chief regional circuit judge for the 22nd Judicial Circuit and immediate past president of the Circuit Judges Association
- **Karen Thomas**, Newport, chief regional district judge for the 17th Judicial District and president of the Kentucky District Judges Association
- **Kirk Tolle**, Maysville, Mason County circuit court clerk and president of the Kentucky Association of Circuit Court Clerks
- **Laurie Dudgeon**, Frankfort via Somerset, director of the Administrative Office of the Courts
- **Carole Henderson**, Frankfort, budget director for the AOC

Although I haven't testified before this committee since November 2008, there's been no shortage of news about the Judicial Branch in the past year. I'm sure most of you are aware of the efforts we have made to satisfy the bonding requirements for our court facilities construction program. We also have taken our first significant steps to address the Judicial Branch budget shortfall.

I'm pleased to report that after months of turmoil in our court facilities construction program, we have good news on two fronts. The first is that we obtained a legal opinion that provided much-needed clarity regarding the bonding requirements for judicial center construction. The second is that after a series of tough negotiations, we reached settlement agreements with the construction managers on the judicial center projects.

When the bonding controversy first arose, we did not fully appreciate the complexity of it. The process to bring our program into compliance was complicated and, at times, contentious. But I am relieved to report that all 33 of our courthouse projects are now properly bonded and the very real threat of costly and protracted litigation has been averted.

I think it is appropriate to mention here that the Court of Justice did not include any new courthouse projects in its six-year capital plan. During this time of shrinking budgets and diminishing state revenue, it did not seem prudent to seek funding for new construction projects. That is not to say that we no longer have courthouses in need of replacement. But we are content to wait until the economy improves before seeking additional capital for those projects.

The other news I'm sure you've heard is that the AOC abolished 47 positions and announced several operational cuts on September 15. This is the first time in the history of the unified court system that the Judicial Branch has cut personnel to address a budget shortfall.

These recent actions will save the Judicial Branch \$4.5 million. While these cuts will allow us to move forward as a leaner organization, the amount saved falls far short of the deficit we are facing.

We recognize that further cuts will be necessary to meet our expected shortfall. And with 87 percent of our operating budget dedicated to personnel, those cuts will likely take the form of human capital. But we believe the actions taken were necessary and appropriate to reduce our recurring personnel expenditures.

One other issue that may be of interest to this committee is our efforts to fill the remaining judicial vacancies. The Judicial Branch experienced an unprecedented number of judicial retirements at the beginning of this year because of the sunset of the Senior Judges Program. As of January 31, 2009, we had 27 judicial vacancies in Circuit, Family and District courts across the state. The resignation of a Family Court judge in March created a 28th vacancy.

We began to fill the vacant positions July 1. Since that time, 17 positions have been filled. Three additional vacancies have been created by the appointment of sitting district judges to vacant circuit seats, leaving us with a total of 13 vacant seats left to fill. We hope to have all of the Judicial Nominating Commission meetings completed and all of the nominees submitted to the governor by the beginning of November.

Our purpose in keeping these seats vacant was to save money. I'm pleased to report that we have accomplished that goal. As of September 2009, the Judicial Branch

saved \$2.3 million in judicial salaries and benefits. We anticipate that the vacancy credit associated with the judgeships will offset our shortfall or contribute to any anticipated surplus we might have in Fiscal Year 10.

As of this date, there are 67 retired judges participating in the Senior Judges Program. Despite this large complement, we have managed to keep all of our senior judges busy. These judges will continue to play a vital role in our court system for the next several years while they complete the required 600 days of service. Three judges are expected to complete their service by the end 2009, four will complete their service during the first half of 2010 and 11 judges will cycle out of the program in 2011.

Presentation by AOC Director Laurie K. Dudgeon

At this time I'd like to ask Laurie Dudgeon, the newly appointed director of the AOC, to give you a brief overview of the Judicial Branch.

Laurie has experience practicing law in Kentucky courts and a solid understanding of state government and the Judicial Branch. Since joining the AOC, I've been impressed with her integrity and her ability to grasp quickly the issues and make sound decisions. I'm delighted that Laurie has agreed to lead the AOC and am confident that you'll enjoy working with her.

Presentations by Elected Officials

At this time I'd like to ask the judges and circuit court clerk to give you some insight into their areas of the court system:

Chief Court of Appeals Judge Sara Combs
 Family Court Judge Larry Thompson
 Circuit Judge Thomas Clark
 District Judge Karen Thomas
 Mason County Circuit Court Clerk Kirk Tolle

Presentation on Judicial Branch Budget

I've been building up to the main focus of our meeting today, which is the dire Judicial Branch budget situation. Carole Henderson, the AOC budget director, has prepared a presentation that will help explain this complex subject in lay terms. I think you'll find this information enlightening and I hope you'll feel free to ask questions during her presentation.

Closing Remarks

Anyone who has heard Sara Combs speak is aware of her passion for the law, her optimistic outlook and her love of language. What better person to provide closing remarks today – and to set the tone for our next encounter – than Chief Judge Combs.

I appreciate your time today and now I will be happy to answer any questions you may have.

###