

As you may be aware, my name is Lewyn Scott Garrett, and I am the Chief Judge of the Orphans' Court for Baltimore City. I would like to give this Task Force a little background on myself first:

I graduated from the University of Maryland Law School in 1978 and 5 months later began practicing law. Two years prior to my graduation, I was a Law Clerk to Attorney Juanita Jackson Mitchell who was the first black female attorney in Maryland and wife of Clarence Mitchell, Jr, whom one of the Circuit Courthouses in Baltimore City is named after. Mrs. Mitchell had a very extensive estate practice at that time. With that being said, I have been involved in this area for almost 50 years - 17 years as an attorney, 19 years as an Associate Orphans' Court Judge and the almost 12 years now as the Chief Judge. Additionally, I am trial attorney and have handled thousands of cases at this juncture in my career in many areas; before 1995 in estates matters and primarily criminal law, family law and personal injury cases thereafter.

I give this background to say that I have practical and litigation experience in the legal system, especially in estates and legal practice matters.

In Baltimore City, we have an excellent relationship with our Register of Wills. We work together to service the citizens of Baltimore City. My Court handles approximately 1400 hearings yearly, not including the hundreds of Orders and other matters that come to the court. These hearings consist of a variety of matters. Some of the areas are Show Cause Hearings, Judicial Reviews, Motions to Remove the Personal Representative, Motions Hearings that in essence mimic Temporary Restraining Orders and/or Injunctions, Motions for Distributions, Motions dealing with Discovery issues and Caveat Proceedings. Conjointly, the Orphans' Court addressed these matters in much shorter time than would be done in Circuit Courts with its overwhelming dockets and other challenges it has.

This Task Force had the wisdom to request testimony of people who are experienced in this area. Someone who does not practice law and/or has not litigated cases may not understand the scope and nature of each of these hearings. I will just take two examples for the purpose of this testimony, but would be more than happy to give a litany of other examples. In a Judicial Hearing, the Court may discover that monies and/or property have been misappropriated, not surrender to the appropriate person, and/or wrongly coveted by someone as well as other complications. In any of these instances, the hearing usually becomes very contested, prolonged and contentious. Obviously, the Judge has to take the proper action to attempt to make heirs and/or legatees as whole as possible. In short, the Judge must take critical corrective action. This type of action cannot and should not be done by the Register's Office. As the old axiom goes, 'Everyone should have their day in court'.

Likewise, in Motions to Remove the Personal Representative, first a hearing is required by statute and there can be a host of results that I will just state that the same outcomes could be applicable in this instance as in Judicial Reviews, as well as again many others.

These hearings can be similar to Status, Pendente Lite and/or Temporary Requests and the variety of Motions hearings in family law cases, civil, juvenile and criminal cases in front of a Judge. These hearings are necessary to move the cases along, administer justice and to give people the opportunity just to be heard. The last one is probably the most important because it gives, promotes and strengthens the confidence and faith people have in our judicial system. Such hearings in front of a Judge should be viewed as a fundamental necessary right.

At this juncture, there are too many unknown factors that should be taken into account to hastily take and/or recommend any real substantive action. To take action for the mere sake of taking action would be a disservice to the citizens of Maryland. Productive solutions to these issues that remain unresolved should be the priority. There is no real predictive information on this subject. There are three (3) counties that these matters are handled by the Circuit Court, but are the dockets in these counties similar to Baltimore City or even Garrett County for instance? An analogy are the facts that Garrett County has four (4) Circuit Court Judges, while Baltimore City has thirty-five 35 Circuit Court Judges. In short, what type of backlogs may occur? This possibility invokes the saying that "Justice Delayed is Justice Denied".

Another issue to consider is the effect this will have on Office of the Register of Wills. Should it be incorporated in the Circuit Court Clerk's Office as is done in all other areas, Juvenile, Criminal, Family, and the variety of Civil matters for examples? If things are going to be changed, it should evolve and not devolve this critical area. When someone dies, it is an extremely traumatic time. To lessen the trauma, it is essential that change to the system be an improvement and not an attempt to fix something that is not broken, especially when we do not know what, if any parts are actually broken.

We should table this matter, look deeper into the matter and not hastily attempt to cure something that might not be ill. In short, let us evolve, but let's evolve wisely and not knee jerkily. The citizens of Maryland expect this level and more importantly deserve it.