

IN THE COURT OF APPEALS OF MARYLAND
ORDER APPROVING PROCESS OF APPLICATION FOR CERTIFICATION OF
FORMER JUDGES FOR RECALL

WHEREAS, § 1-302 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland provides for the recall of former judges for temporary assignment, including requiring approval for assignment by a majority of the judges of the Court of Appeals; and

WHEREAS, the Court of Appeals having determined that the process for approval shall be formalized, with information to be provided by those judges seeking to be certified by way of a confidential application for certification; and

WHEREAS, a process for further investigation, if warranted, having been developed, in order for the members of the Court to be informed in determining whether to grant approval; and

WHEREAS, the Court of Appeals having further determined that the certification of judges for recall shall be renewed on a periodic basis,

NOW, THEREFORE, it is ORDERED, by the Court of Appeals of Maryland, this 14th day of December 2017, that judges seeking certification for recall for temporary assignment as a senior judge shall complete and submit the application for certification approved by the Court of Appeals, a current copy of which shall be maintained on mdcourts.gov, the website of the Judicial Branch, effective January 1, 2018; and

Judges certified for recall as a senior judge for the first time after January 1, 2018, shall reapply for recall during the three (3) month period prior to the third anniversary of their initial approval by the Court of Appeals and every three (3) years thereafter; and

Judges who have been certified for recall as a senior judge prior to January 1, 2018, shall submit an application for recertification no later than December 31, 2020, and every three (3) years thereafter.

/s/ Mary Ellen Barbera
The Honorable Mary Ellen Barbera

/s/ Clayton Greene, Jr.
The Honorable Clayton Greene, Jr.

/s/ Sally D. Adkins
The Honorable Sally D. Adkins

/s/ Robert N. McDonald
The Honorable Robert N. McDonald

/s/ Shirley M. Watts
The Honorable Shirley M. Watts

/s/ Michele D. Hotten
The Honorable Michele D. Hotten

/s/ Joseph M. Getty
The Honorable Joseph M. Getty

Filed: December 14, 2017

/s/ Bessie M. Decker
Bessie M. Decker
Clerk
Court of Appeals of Maryland

Application for Certification for Recall as a Senior Judge

Name:

Address:

Telephone:

Cell:

Court Assignment Prior to Retirement or Resignation:

I wish to serve on the following court(s) and have requested approval of the administrative judge(s) in each such jurisdiction:

As a condition of being certified for recall as a senior judge, a former judge must complete the following application before an initial assignment, and every three years thereafter, if the judge wishes to continue to serve as a senior judge. In particular circumstances, the Court of Appeals may require the former judge to provide additional information. Completed applications and any supplements will be considered personnel records subject to Maryland Code, General Provisions Article, §4-311.

1. *Capacity.* As you know, a judge must be able to preside in a courtroom, perhaps for hours at a time; interact with attorneys, court personnel, and members of the public; comprehend and process a substantial amount of information (which may be presented in written, digital, or oral formats); analyze and decide complex issues; and respond to situations with discretion, appropriate judgment, emotional and mental discipline, and restraint while under pressure.

A. Do you know of any reason why you might not be able to perform the duties and functions of a judge in a competent, ethical, and professional manner?

Yes

No

B. If yes, please explain.

2. *Conduct and Integrity.* Under the State Constitution, lawyers who serve as judges in Maryland courts are to be “most distinguished for integrity, wisdom and sound legal judgment.”

Maryland Constitution, Article IV, §2; Code of Judicial Conduct, Maryland Rule 18-100.1 et seq.

A. Please indicate whether any of the following circumstances apply to you since your appointment as a judge:

___ arrested, indicted, or have been the subject of a violation of federal, state, county, or municipal law (other than a motor vehicle offense for which a fine of \$100 or less was imposed).

___ disciplined or cited for a breach of ethics or unprofessional conduct (regardless of whether the disposition would be considered discipline).

___ been the respondent in a protective order, peace order, or a petition seeking such an order.

___ been the subject of a complaint alleging sexual harassment or a complaint alleging discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or political affiliation.

___ failed to file federal and state tax returns and pay required taxes in a timely manner.

B. If any of the above circumstances applies to you, please explain. (You may attach additional pages, if necessary).

3. *Disqualifications.* Under Maryland law, a former judge may not be recalled for assignment if the judge:

- Was removed or involuntarily retired from judicial office
- Voluntarily retired by reason of disability
- Had the most recent service as a judge terminated by reason of defeat for election to judicial office or by rejection of confirmation by the Senate
- Was censured by the Court of Appeals upon recommendation of the Commission on Judicial Disabilities
- Is engaged in the practice of law

Courts & Judicial Proceedings Article, §1-302(c).

By my signature below, I affirm that none of the above circumstances applies to me.

I affirm that the information provided in this application is true, to the best of my knowledge, information, and belief.

_____/_____/_____
Date

Signature

COURTS AND JUDICIAL PROCEEDINGS
TITLE 1. COURT STRUCTURE AND ORGANIZATION
SUBTITLE 3. COURT OF APPEALS

Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 1-302 (2017)

§ 1-302. Recall of former judge for temporary assignment

(a) "Former judge" defined. -- In this section, "former judge" means a judge who previously served in a court.

(b) Conditions for temporary assignment. -- Except as provided in subsection (c) of this section, the Chief Judge of the Court of Appeals may assign any former judge to sit temporarily in any court if the temporary assignment is approved by the administrative judge of the circuit in which the former judge is to be assigned and if the former judge:

(1) Has served in the aggregate at least 2 years as a judge, except that in Talbot County, the former judge shall have served in the aggregate at least 1 year as a judge;

(2) Has been approved for assignment by a majority of the judges of the Court of Appeals;

(3) Meets the standards established by this section as well as any additional standards established by rule of the Court of Appeals; and

(4) Has consented to the assignment.

(c) Disqualification for recall. -- A former judge may not be recalled for temporary assignment if the judge:

(1) Was removed or involuntarily retired from judicial office pursuant to the Constitution or laws of this State;

(2) Voluntarily retired by reason of disability;

(3) Had the most recent service as a judge terminated by reason of defeat for election to judicial office or by rejection of confirmation by the Senate;

(4) Was censured by the Court of Appeals upon recommendation of the Commission on Judicial Disabilities; or

(5) Is engaged in the practice of law.

(d) Maximum period of assignment. -- A former judge recalled under this section may not be temporarily assigned for more than 180 working days in any calendar year. However, if the case which the former judge is hearing at the end of the 180-day period is not concluded, the time may be extended until that case is concluded.

(e) Power and authority. -- A former judge temporarily assigned under this section has all the power and authority of a judge of the court to which he is assigned.

(f) Compensation. --

(1) Whether or not he is receiving a retirement allowance, a former judge temporarily assigned under this section shall receive a per diem compensation for each day he is actually engaged in the discharge of judicial duties based on the current annual salary of the court in which he served immediately prior to his resignation or retirement. The per diem shall be computed on the basis of 246 working days a year. If the sum of the per diem payments received by a former judge in any one calendar year, when added to the retirement allowance he is entitled to receive during that calendar year, equals the annual salary of a judge of the court in which the former judge served immediately prior to the termination of his active service, no further per diem is payable to the former judge in that calendar year.

(2) A deduction may not be withheld for health benefits or retirement purposes from the compensation paid to a former judge during temporary judicial service. The performance of temporary judicial service does not provide additional service for retirement credit purposes.

(3) In addition to the per diem compensation provided for in paragraph (1) of this subsection, he shall be reimbursed for reasonable expenses actually incurred by reason of the assignment, in accordance with State joint travel regulations.

(g) Preference for assignment. -- Preference for temporary assignment shall be given to retired judges from the circuit in which the temporary assignment is to take place.

HISTORY: 1977, ch. 899, § 1; 1981, ch. 173; 1982, ch. 35; 1989, ch. 560; 1990, ch. 154; 1992, ch. 87; 2006, ch. 569; 2012, ch. 66 § 6; 2017, ch. 10.