Federal Bar Association
Northern District of Ohio Chapter

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Summer 2021

Inside This Issue:

President's Podium - Erin Brown

I find it hard to believe that this is my final newsletter for this term. I am overwhelmed with appreciation for the number of successful programs our chapter has had during this tumultuous, but successful year. I write this letter immediately following one of our best events of the year. On September 10, we had the pleasure of hosting Dr. Kate Masur, Professor of History at Northwestern University, and author of *Until Justice Be Done: America's First Civil Rights Movement from the Revolution to Reconstruction* at Cleveland-Marshall College of Law. The day began with an intimate book club discussion followed by a conversation with Dr. Masur and Judge Solomon Oliver, Jr., who held a riveting discussion on the early movement for equal rights and the battles against racist laws and institutions before the Civil War; they further analyzed the lessons that the United States has learned from our successes and failures, a discussion that required introspection and an honesty about the lessons from our nation's past. Both Dr. Masur and Judge Oliver observed that although this fight began in the 1800s, the legal community still has work to do to ensure equality in both law and practice for all of those in our community. The Diversity Committee, including Marisa Darden, Hailey Hillsman, and Talia Karas, did an outstanding job making this event a success.

As we continue to move forward with life during the pandemic, I am certainly grateful for the recent opportunities we have had to be together in person. Our monthly board meetings continue to be held in person, with the option to participate virtually. In August, we held our annual FBA Summer Social members-only event at Masthead Brewing Co. The event was very well attended and a much welcome change from the virtual happy hours of 2020.

October 1, 2021 will be the FBA Annual State of the Court luncheon at the Hilton Downtown, which we are particularly excited about this year. Not only is the luncheon an opportunity for us to gather with our colleagues and exchange ideas, but this year will be the first time that we are combining the Officers' swearing in with the State of the Court. While we always look forward to seeing one another in person, we are also mindful that COVID-19 continues to be prevalent and that precautions may be necessary. As such, we have worked with the Hilton to implement a number of safeguards for everyone's health and safety, including requests that all guests and staff wear a face mask in common areas, limiting the number of guests per table to five, and taking specific food and utensil safety precautions. We look forward to seeing everyone in attendance and continuing this long-standing tradition.

On a personal note, I cannot have been more honored to serve as your FBA NDOH Chapter president. I am truly grateful for the hard work and dedication from the Board of Directors, the federal judiciary, and the individual members of this chapter, all of whom have dedicated themselves to our mission to strengthen the federal legal system and administration of justice. I am equally excited for the new officers of the FBA NDOH to imprint their own ideas on the chapter and stand at ready to offer my assistance should it be needed. I know that I leave the chapter is very capable hands and am grateful for the opportunity to have served you all over the last year.

FBA Members in the News

Outgoing President Erin Brown was presented with some tokens of the board's esteem at the September 15, 2021, board meeting.

FBA News

Greater Cleveland Food Bank

Dear Contributing Members,

On behalf of the Federal Bar Association's Northern District of Ohio Chapter and the Chapter's Newer Lawyers Committee, thank you for your generosity and support of our virtual food drive. With you help we were able to raise over $3,000 for families in need throughout the Greater Cleveland area. This has been a challenging year for all of us, but through your donation you have made things just a little less challenging for our neighbors and friends in need this winter. We wish you health and happiness in this new year and are truly grateful for your contributions.

Best regards,

The Newer Lawyers Committee

Federal Bar Association, NDOH Chapter

Click here to visit our personal page.
If the text above does not appear as a clickable link, you can visit the web address:
http://support.greaterclevelandfoodbank.org/site/TR?px=2769861&pg=personal&fr_id=1141&et=eM1slQdoep2OP4H8YfLyDg&s_tafId=2156

Click here to view the team page for FBA Young Lawyers Food Drive
If the text above does not appear as a clickable link, you can visit the web address:
http://support.greaterclevelandfoodbank.org/site/TR?team_id=3141&pg=team&fr_id=1141&et=Frg62B2A-sApAlhmT226hg&s_tafId=2156

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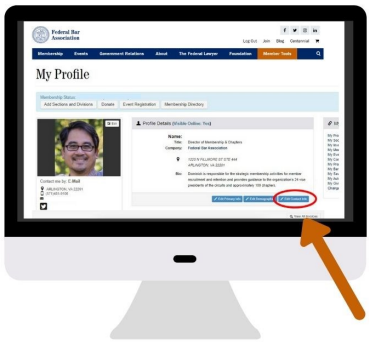

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Taking a Stand: How Federal Courts Can Reclaim Article III from State and Federal Legislatures

David M. Hopkins*

A puzzling problem has come to the forefront of the legal community in recent days, as the Texas state legislature's latest attempt to ban abortion took the form of a statute with a unique method of enforcement. Specifically, Texas S.B. 8,[1] the most recent Texas statute banning abortion after the detection of a fetal heartbeat (the "Heartbeat Bill") came into effect on September 1, 2021. That statute, unlike most previous efforts to ban abortion, bars enforcement by employees and officers of the state and delegates that power solely to the hands of the general public by establishing a private cause of action. The question that immediately formed in the minds of many practicing attorneys was simple: How does the general public have standing to sue here?

American law provides that plaintiffs must demonstrate that they have standing to bring a claim against the defendants they wish to sue. Both federal[2] and state[3] courts generally require plaintiffs to demonstrate a bare minimum of injury in fact, causation, and redressability in order to find that they have standing to sue.[4] The Supreme Court of the United States has found that injury in fact constitutes a concrete and particularized, actual or imminent invasion of a legally protected interest.[5] This nuance is important because the Case or Controversy Clause in Article III of the Constitution limits the kinds of cases that courts may hear. The Case or Controversy Clause, of course, provides that courts may hear cases or controversies arising under a number of categories and in effect prohibits courts from hearing cases that would result solely in advisory opinions. Standing has been recognized as a critical means of ensuring that the Case or Controversy Clause is appropriately enforced and preserved.[6]

The language of the Heartbeat Bill provides that any person other than an officer or employee of the state or local governments may bring a civil action against any person who performs, aids, or abets an abortion in the ways described in the Bill or intends to engage in this conduct.[7] This ostensibly ranges from the doctor performing the abortion to the taxi driver who drives the patient to the clinic, with minimum statutory damages of $10,000 accompanying each violation of the statute.[8] Setting aside the legal, policy, and political debates underpinning the Heartbeat Bill, this particular scheme poses a challenging problem with respect to the fundamental question of standing. This fancy feat of legislative footwork naturally raises the question of how a private individual who is completely disconnected from a woman seeking an abortion can file suit against individuals associated with that process. Simply put, we wonder how such a party can have standing to sue.

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[1] To be codified at Tex. Health & Safety Code Ann. §§ 171.201(1), 171.204(a) (West 2021). Subsequent citations will use the codified section numbers.

[2] *See, e.g., TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203 (2021).

[3] *See, e.g., Moore v. Middletown*, 975 N.E.2d 977, 982 (Ohio 2012).

[4] There are very limited exceptions to this requirement for issues such as free speech and taxpayer standing that are not the subject of this article.

[5] *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992).

[6] *Id.* at 560.

[7] Tex. Health & Safety Code Ann. § 171.208(a)(1)-(3).

[8] *See id.* § 171.208(b)(2).

The easy answer is that plaintiffs in this position have standing to sue because the Texas legislature says they do. This concept, often referred to as "statutory standing," confers standing without the need for that pesky constitutional inquiry regarding the nature of the plaintiff's claimed harm, as is generally required in other cases. I respectfully submit that the concept of statutory standing, particularly as it is analyzed in the courts, must change in order for the core Article III concept of standing to persevere in the face of efforts from legislatures that wish to circumvent it. Admittedly, state court standing tests such as those that have been utilized in Texas courts could serve as an obstacle to the implementation of laws such as the Heartbeat Bill to the extent that those state-level analyses are analogous to federal law on standing.[9] Specifically, Texas law utilizes a test for standing that is virtually identical to the federal test for standing. The Texas doctrine on standing requires that a plaintiff "must be personally injured," that the injury must be "fairly traceable to the defendant's conduct," and that the injury must "be likely to be redressed by the requested relief."[10] The Supreme Court of the United States, in *TransUnion*, found that Congress does not have the unrestricted ability to confer standing by statute and required injury-in-fact even in the face of a statutory violation.[11] As a result, Texas state courts may utilize similar reasoning to find that members of the general public do not have standing to sue despite the language of the Heartbeat Bill.

However, this uncertainty underscores the need to develop a predictable and consistent way to analyze standing that conforms with the classic Article III standing requirements. Incorporating the classic constitutional test for standing provides the optimal method to ensure the uniform application and preservation of Article III standing. The best way to achieve this outcome would be to incorporate the classic constitutional test into the judicial analysis of standing as conferred by statute. This would ideally take the form of a straightforward two-part test: First, does the plaintiff fit within the category of plaintiff covered by the statute? Second, does the plaintiff's alleged harm confer standing under the traditional constitutional analysis of Article III standing?

While this would be a significant addition to the current jurisprudence concerning standing, the idea of adding a constitutional lens to a threshold question of access to the courts is hardly a new one. Consider the issue of personal jurisdiction. While this thorny and nuanced concept has evolved significantly over time, courts now utilize both state long-arm statutes as well as federal limitations under the Due Process Clause when determining whether an exercise of personal jurisdiction over a defendant is warranted.[12] One might respond, "Well, that's all well and good in federal courts, but why should a state court interpreting standing under a state statute be bound by Article III standing considerations if the state statute already confers standing?" Personal jurisdiction provides a useful analogy for this situation, as well. Even when a dispute is limited to state courts and a state's long-arm statute is invoked to resolve the issue of personal jurisdiction, constitutional due process requirements must still be satisfied before personal jurisdiction may be exercised.[13] This is true even where, as in the State of Ohio for example, a state's long-arm statute is not coterminous with due process.[14]

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[9] *See, e.g.*, *Garcia v. City of Willis*, 593 S.W.3d 201 (Tex. 2019).
[10] *Heckman v. Williamson County*, 369 S.W.3d 137, 155 (Tex. 2012) (internal quotation marks and citations omitted).
[11] 141 S. Ct. 2190, 2205 (2021).
[12] *See, e.g.*, *Daimler AG v. Bauman*, 571 U.S. 117, 125 (2014) (considering the applicability of both the state's long-arm statute and federal due process concerns in analyzing personal jurisdiction).
[13] *See, e.g.*, *Kauffman Racing Equip., L.L.C. v. Roberts*, 930 N.E.2d 784, 790 (Ohio 2010).
[14] *Id.*

While it is important to ensure that state courts can apply state law in accordance with state precedent, it is equally important to ensure that state legislatures cannot confer standing in ways that fly in the face of Article III. Whatever one may think about the issues and politics bubbling at the surface of the Heartbeat Bill, it should strike any practicing attorney as odd that anyone may sue a person involved in the process of a woman obtaining an abortion simply because a state legislature has said as much. Adding a constitutional dimension to statutory standing analyses solves this problem in ways that recognize the importance of Article III in all cases, not just those that fall outside the unique creature that is statutory standing. Without this change, what is now an unprecedented legislative sleight of hand could easily become the norm as state legislatures increasingly encounter problems in passing laws that can survive constitutional muster. In short, the question of standing has always been left to judicial interpretation, not legislative fiat. It must stay that way if Article III is to continue to serve as a useful check on ambitious lawmakers.

The Speedy Trial Clause and Parallel State-Federal Prosecutions

Ryan Kerfoot*

The Supreme Court has lauded the Sixth Amendment's guarantee of a speedy and public trial as one of the most fundamental guaranteed by the Constitution.[1] To those facing the prospect of both state and federal prosecutions, however, this fundamental right probably seems like a laughable guarantee. When a defendant has both state and federal charges pending, federal authorities tend to delay formally indicting the defendant until after the state proceedings have concluded. This practice, however, raises an important dilemma: can the government avoid the burdens of a concurrent state and federal prosecution while still protecting the defendant's speedy trial right? Although the Supreme Court recognizes that the government's legitimate reason for delay does not violate the speedy trial right, the Court has yet to provide guidance on whether avoiding parallel prosecutions is always a legitimate reason under this test. Different United States Courts of Appeals have reached divergent conclusions on this issue. Some circuits, like the Sixth Circuit, have ruled that delaying federal proceedings to allow a "separate sovereign" to finish its prosecution is "without question" a valid reason for the federal government to delay proceedings.[2] Other circuits, including the Ninth Circuit, disagree with this bright-line rule, preferring an ad hoc approach where the district court has to consider the nature and circumstances of the situation to determine whether the decision to delay weighed in favor of the government.[3]

This article argues that the ad hoc approach is the better method for determining whether the federal government has a valid reason to delay a proceeding because the ad hoc approach allows the district court to take the circumstances of the case into account, thus allowing for a fairer administration of criminal justice. This in turn makes the ad hoc approach more consistent with the purpose of the Speedy Trial Clause and with Supreme Court precedent.

I. Background of the Speedy Trial Clause

With roots dating back to twelfth-century England, the speedy trial right is an integral part of the Anglo-American legal heritage. Despite this, there was very little legal development in the courts until the Supreme Court's 1905 decision in *Beavers v. Haubert*.[4] In *Beavers*, while finding that defendants facing successive state prosecutions undoubtedly had a speedy trial right, the Court did not consider that right to be "unqualified and absolute" and instead must be "relative" based on the case's circumstances.[5] Specifically, the Court reasoned that Beavers' speedy trial rights had to give way to the "practical administration of justice."[6] Although *Beavers* recognized that competing interests underlay the Speedy Trial Clause, *Beavers* only recognized a general societal interest in "public justice" without providing specific interests that courts were bound to consider.

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* Assistant Prosecuting Attorney, Lake County. This is an abridged version of the author's Note, which was published at 71 Case W. Rsrv. L. Rev. 325 (2020) and appears here with the permission of the Case Western Reserve Law Review.

[1] *See* Klopfer v. United States, 386 U.S. 213, 223 (1967).

[2] United States v. Schreane, 331 F.3d 548, 555 (6th Cir. 2003).

[3] United States v. Myers, 930 F.3d 1113, 1121 (9th Cir. 2019).

[4] 198 U.S. 77 (1905).

[5] *Id.* at 86.

[6] *Id.* at 87.

The seminal Speedy Trial Clause case, *Barker v. Wingo*,[7] came as a response to calls from the lower courts and legal scholars advocating a uniform speedy trial test. In *Barker*, the Supreme Court adopted a balancing test in which courts must weigh the conduct of the prosecution and defense based around four factors to determine whether the delay was justified. The reason for the delay is one factor; and the one often considered in the context of parallel prosecutions. When adopting the *Barker* balancing test, the Court explicitly rejected two bright-line rules because both were too "inflexible" to adequately protect the fundamental right to a speedy trial.[8] A further part of the *Barker* Court's rationale in adopting the balancing test rather than a rigid rule was the nature of the speedy trial right itself. Referring back to its prior decision in *Beavers*, Justice Powell's lead opinion, supported by an almost unanimous Court, reasoned that because the accused's speedy trial right competed with society's interests, the analysis of the speedy trial right had to be made within the "particular context of the case."[9]

The Court's opinion in *Barker* also suggests that the same level of "ad hoc analysis" is required in order to decide the second factor, the reason for delay, the factor at the center of this circuit split. Justice Powell considered this factor to be centered around the government's reason for delay rather than the defendant's reason. Furthermore, the Court addressed the legitimacy of the government's reason in assessing this factor. Deliberate attempts by the government to delay a proceeding in order to hinder the defense naturally weigh heavily against the government, whereas neutral reasons like "overcrowded courts" still weigh against the government but less so than bad faith reasons since the government bears the ultimate responsibility for such circumstances.[10]

From these decisions, it is apparent that the speedy trial right is not meant to be governed by inflexible rules but rather must be amenable to the competing interests between protecting the defendant's speedy trial rights and society's interests in prosecuting the defendant effectively. In the context of parallel federal-state prosecutions, the circuit courts have highlighted a number of interests it considers essential to the speedy trial analysis.

Maintaining a separation between the state and federal court systems is the key interest that the circuit courts adopting the bright-line rule have quoted. The Fourth Circuit, the court that originated the bright-line rule, noted in *United States v. Thomas*[11] that a pending state prosecution was an "obvious reason" for delaying a federal prosecution because "to [rule] otherwise would be to mire the state and federal systems in innumerable opposing writs . . . and generally to throw parallel federal and state prosecutions into confusion and disarray."[12] However, the Supreme Court's precedent regarding concurrent jurisdiction and parallel proceedings does not show as clear a commitment to complete federal-state separation. In the realm of the abstention doctrine, the Court has made explicit that a federal court's decision to withhold the exercise of its jurisdiction "is the exception, not the rule" reserved only for "exceptional circumstances."[13] Both liberal and conservative justices have stated that the mere existence of a state proceeding is not the kind of exceptional circumstance that justifies a federal court's abstention.[14] Therefore, although the district court may be able to defer to a state proceeding when the interests of federalism call for doing so, that rule is by no means an absolute rule requiring the district court to defer whenever a state proceeding exists.

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[7] 407 U.S. 514 (1972).
[8] *Id.* at 530.
[9] *Id.* at 522.
[10] *Id.*
[11] 55 F.3d 144 (4th Cir. 1998).
[12] *Id.* at 150.
[13] Colo. River Water Conservation Dist. v. United States, 424 U.S. 800, 813 (1976).
[14] *See* Growe v. Emison, 507 U.S. 25, 32 (1993) (Scalia, J.) ("federal courts and state courts often find themselves exercising concurrent jurisdiction over the same subject matter, and when that happens a federal court generally need not abstain nor defer to the state proceedings"); Sprint Commc'ns, Inc. v. Jacobs, 571 U.S. 69, 77 (2013) (Ginsburg, J.) ("Parallel state-court proceedings do not detract from [obligation to hear and decide case]").

Another speedy trial interest has been the interest in seeing prosecutors exercise due diligence in bringing cases to trial. The Supreme Court in 1970 in *Dickey v. Florida*[15] emphasized that the speedy trial right is grounded in the hard reality that "fresh claims" are better than "stale claims," especially in criminal law. The Court reasoned pragmatically that sometimes delays are inevitable due to overcrowded dockets or lack of judges, but convenience to the state alone was not a valid reason to delay the defendant's trial. The Court later in *Strunk v. United States*[16] stated that this particular principle was meant to reaffirm the Court's prior ruling in *Dickey* against prosecutorial convenience as a valid reason for delay.

Lastly, courts on both sides of the circuit split have expressed concerns about the logistical practicality of holding a parallel state-federal proceeding. The Fourth Circuit stated as one of its reasons for adopting the bright-line rule was that parallel proceedings would "increase inmate transportation back and forth between the state and federal systems with consequent additional safety risks and administrative costs."[17] The Tenth Circuit in adopting the ad hoc approach expressed similar concerns, finding that the government's reason was not justified because it made no showing of why transporting the defendant five blocks to the federal courthouse was burdensome on the government.[18] The cost per inmate of keeping a prisoner in state jail while awaiting trial is, however, wildly different depending on the state. In 2015, the cost per inmate varied between $14,780 in Alabama and $69,355 in New York.[19] Therefore, the state's interest in keeping costs low during the pretrial phase is different depending on how expensive keeping that prisoner available for trial would be.

II. Each Circuit's Approach

Within this framework, different circuits have approached the federal government's decision to delay federal proceedings until the end of a state proceeding with different levels of deference. Circuits adopting the bright-line rule give maximum deference to the decision, always tipping this point in favor of the government without further analysis. In other words, the mere existence of a current state proceeding is enough to justify the delay regardless of any potential practicality in conducting a parallel prosecution.

The obvious problem with this approach is that it ignores the Supreme Court's emphasis on considering the case in its particular context. The rule considers *only one* aspect of the government's reason, whether there was a state proceeding happening at the same time the potential federal prosecution. For this rule to be contextual, the same problems that affect every concurrent federal and state prosecution would have to impact every single case. This is far from accurate. According to the circuit courts adopting the bright-line rule, a bright-line rule is necessary to avoid confusion and disarray in parallel federal and state prosecutions, yet it makes no provision for defendants like the one in *United States v. Seltzer*[20] whose state charges were completely unrelated to their federal charges. The rule emphasizes the increased administrative costs of transporting a prisoner from state custody to federal court but provides no leeway for a defendant sitting in state custody for months without a hearing in a jail five blocks from the federal courthouse. According to the Supreme Court, context matters in these cases, but the bright-line rule ignores most of the context surrounding a case.

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[15] 398 U.S. 30 (1970).
[16] 412 U.S. 434 (1973).
[17] *Thomas*, 55 F.3d at 150.
[18] United States v. Seltzer, 595 F.3d 1170, 1178 (10th Cir. 2010).
[19] *Prison Spending in 2015*, Vera: The Price of Prisons, https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending (last accessed Jan. 17, 2020).
[20] 595 F.3d 1170 (10th Cir. 2010).

On the other side of the circuit split, instead of deferring automatically to the government's decision to delay because of a state proceeding, the court applying the ad hoc approach scrutinizes the decision. Courts applying this approach generally focus on three distinct aspects of the case to determine if a parallel proceeding would have been possible: (1) whether there is an overlap in the state and federal charges, (2) whether parallel proceedings would be logistically cumbersome, (3) and whether the government would be unduly burdened by a parallel prosecution. The ad hoc approach does not automatically assume, as the bright-line rule does, that parallel state and federal proceedings are unreasonable but instead takes into consideration the unique circumstances of the case to determine whether the government was justified in waiting. This does far more in considering the context mandated in *Barker* than the bright-line rule does.

CONCLUSION

The Speedy Trial Clause requires flexibility. It is a right fundamental to the American system of justice and yet must remain amenable to numerous interests at play in any given criminal prosecution. No two cases are alike, and the interests underlying all of them will necessarily be different as well. Therefore, the right should not be governed by an inflexible rule that ignores the differences of a case. It must be governed by one that allows the district court to use its discretion to determine whether a delay is reasonable. Even if a parallel proceeding creates a burden, that burden will never be the same in any given case, and thus, like every other factor in the speedy trial analysis, should be considered within the case's context. State and federal proceedings are no different. Sometimes the state may have a strong interest in prosecuting a defendant without a parallel federal proceeding, but other times it may not. When the district court again decides the fate of a defendant waiting five years for his case to reach its end, the court should not be required to allow the case to go forward, just because it was more convenient to wait. A fundamental right deserves more scrutiny than that.

FBA to Hold 2021 Trial Academy

We're Back!! FBA Trial Academy will reconvene September 30 to October 1, 2021, with an Opening Statement and Closing Argument Program. This program is designed both for newer lawyers who want some experience and seasoned veterans looking to sharpen their skills. Participants will receive individual coaching and instructive feedback on their content and delivery before presenting their opening statements and closing arguments at the Stokes Federal Courthouse before members of the Northern District's Bench.

This year's program is a 16-person class, with 16 coaches, and 3 sessions. District Judge J. Philip Calabrese will speak on his views from the bench about the boundaries of openings and closings. Magistrate Judges Carmen Henderson and Thomas Parker will give a 1-hour Ethics and Professionalism program on Thursday afternoon. There will also be 2 mock presentations of a criminal and a civil case opening and closing by some of the FBA's member attorneys.

All 16 student spots have been filled. Wait list only is available for 2021 Trial Academy Program. Please contact Alexandra Dattilo at adattilo@brouse.com, or Richard Hamilton at rhamilton@ulmer.com, or Kerri Keller at kkeller@brouse.com.

FBA Mentoring Committee
A Guide to Government Employment and Externships

This is the third in series of meetings put on by the FBA – Northern District of Ohio Chapter Mentoring Committee to engage with law students and young practitioners on topics of interest while the FBA's national mentoring program is on hold due to the pandemic.

Join us at noon on October 4, 2021 via Zoom (information to follow) for a discussion with Brian McDonough of the US Attorneys' Office and Pat Rahill, law clerk to Judge Boyko, to discuss government externship experiences and their work.

This event is free for all FBA members and law students only.

If you would like to attend this event please follow the link below to join the FBA https://www.fedbar.org/membership/join/

Once you have joined the FBA please email a copy of your paid receipt to **admin@fba-ndohio.org. Once received you will be notified that you have been added to our database and** registered for said event.

If you are a law student and not a member yet please email admin@fba-ndohio.org so that you can get registered.

Please join us for the Fifteenth Annual

2021 State of the Court Luncheon
&
Installation of FBA Board Officers

Hon. Patricia A. Gaughan, Chief Judge of the U.S. District Court, Northern District of Ohio and
Hon. Mary Ann Whipple, Chief Judge of the U.S. Bankruptcy Court, Northern District of Ohio,
together will report on matters of interest to practitioners in our district.

Friday, October 1, 2021
Lunch is at noon & doors open at 11:30 a.m.

Cleveland Hilton Downtown
100 Lakeside Ave.
Cleveland, Ohio 44114
MC: Michael Borden, Professor of Law, Cleveland-Marshall College of Law

Installation of Chapter Officers for 2021-2022 and the swearing-in of the Board of Directors

Derek Diaz, President
Federal Trade Commission
Hon. Amanda M. Knapp, President-Elect
Social Security Administration
Brian N. Ramm, Vice President
Benesch, Friedlander, Coplan & Aronoff LLP
Jeremy A. Tor, Secretary
Spangenberg, Shibley & Liber, LLP
Alexandra Dattilo, Treasurer
Brouse McDowell, LPA

Registration Information:

$55 - Government Employee, Board Family Member & Student
$60 Individual FBA Members
$65 - Non-Members
***$700 Table of Ten Firm Sponsorship**

*(Includes table of ten, sponsorship recognition in the hall, event program and preferred seating close to the stage.)

Only accepting online registration & PayPal payment.
Registration deadline for this event is September 24, 2021 for individual ticket sales.
Registration deadline for table of ten firm sponsorship is September 22, 2021 to be included in the program and hall recognition.

Please click here to register:.

***Vegetarian entrée available upon special request. Contact: admin@fba-ndohio.org.*

****Cancellation policies will be followed.*

Please Join the FBA Northern District of Ohio Chapter for a
(Virtual) Brown Bag Luncheon with
Senior U.S. District Judge Thomas M. Rose, United States District Court for the Southern District of Ohio

Thursday, October 14, 2021, at Noon

Free for FBA Members and Non-Members.
Non-Members please consider becoming a member of the Federal Bar Association Northern District of Ohio Chapter by clicking here.
Please click here to register.
Zoom and call-in information will be provided prior to the event.

AEDPA and the PLRA After 25 Years
Case Western Reserve University School of Law
November 12, 2021

The Antiterrorism and Effective Death Penalty Act sought to recalibrate the relationship between state and federal courts by limiting the scope of federal habeas corpus review of state criminal convictions and by restricting the availability of federal habeas relief. The Prison Litigation Reform Act limited the availability of federal relief for prisoners by codifying exhaustion requirements, mandating full payment of filing fees, requiring a physical injury as a basis for recovery for mental or emotional injury, and adding a "three strikes" rule that bars prisoner access to federal court in certain circumstances.

The Northern District of Ohio chapter of the FBA and the national FBA's Federal Litigation Section are co-sponsoring a daylong symposium on "AEPDA and the PLRA After 25 Years" on Friday, November 12, at the Case Western Reserve University School of Law. The program, which has been organized by the *Case Western Reserve Law Review*, will feature a wide range of judges, legal scholars, and lawyers who deal with issues under both statutes.

Among the issues to be explored at the symposium are the statutes' impact on persons and communities of color, the ability of prisoners to obtain meaningful judicial relief, the health consequences for prisoners during the COVID-19 pandemic, the ability of the federal courts to address prisoner claims, and the relationship between state and federal courts.

The symposium will be accessible online as well as in person. An application for approval of six hours of CLE credit is pending. Registration for chapter members is $100 for CLE credit, whether the registrant attends in person or remotely. The $100 CLE rate is also available for members of the Federal Litigation Section regardless of whether they are members of this chapter. Registration is free for persons who are not seeking CLE credit. You can register online at: https://case.edu/law/our-school/events-lectures/aedpa-and-plra-after-25-years-case-western-reserve-law-review-symposium

Committed speakers include Judge Karen Nelson Moore of the U.S. Court of Appeals for the Sixth Circuit, Judges Solomon Oliver and J. Philip Calabrese of the U.S. District Court for the Northern District of Ohio, Judge Michael J. Newman of the U.S. District Court for the Southern District of Ohio (a former national FBA president), Professor Margo Schlanger of the University of Michigan, Professor Nancy J. King of Vanderbilt University, Professor Lee Kovarsky of the University of Texas, Professor Hadar Aviram of the University of California Hastings College of the Law, Professor William M. Carter, Jr., of the University of Pittsburgh, Paul J. Larkin, Jr., of the Heritage Foundation, Chicago lawyer Adam K. Mortara (whom the Supreme Court appointed to argue as amicus curiae last term in a case involving the Fair Sentencing Act of 2010), and former Federal Defender for the Northern District of Ohio Dennis Terez (a former chapter president).

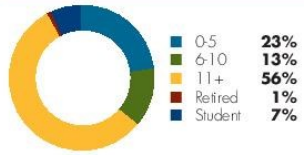
Federal Bar Association

Benefits of Membership

Joining the FBA entitles you to membership within the national organization as well as within your local FBA chapter. Members receive a host of special benefits designed to uphold the mission of the FBA and support each member's career within the federal legal system. Association activities and member benefits are organized into five primary categories.

You're in Good Company

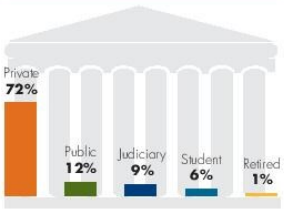
Years in Practice



Note: Chart only includes practicing attorney members of the Association.

Gender

Types of Practice



Advocacy

The organization's headquarters are located outside of Washington, D.C., in Arlington, Va., giving it the proximity necessary to remain engaged on behalf of its members.

- government relations efforts as defined by the FBA Issues Agenda
- annual Capitol Hill Day
- monthly updates on recent government relations developments

Networking and Leadership

The FBA is large enough to have an impact on the federal legal profession, but small enough to provide opportunities for networking and leadership. The FBA is governed by a 15-member, elected, Board of Directors and numerous volunteer members.

- more than 95 chapters across all federal circuits
- 22 practice area sections
- five career divisions
- volunteer leadership opportunities within each chapter, section, and division

Education

The FBA offers more than 700 credit hours of continuing legal education (CLE) at both the national and local level throughout the year.

- national CLE conferences
- bimonthly CLE webinars
- local chapter-sponsored CLE events

Publications and Communication

As part of your membership, you will receive and have access to:

- FBA website (www.fedbar.org)
- The Federal Lawyer magazine (10x per year)
- bimonthly eNewsletter
- section, division, and chapter newsletters (printed)
- Judicial Profile Index (archived)

Legal Career Center

The Legal Career Center is an online resource for both employers looking to hire and job seekers looking for a position within the federal legal community. Employers have the option of posting jobs available to the FBA Legal Career Center only, or to the Legal Job Exchange Network that reaches thousands of potential candidates through the network of partner job boards. Job seekers have free access and can use the Legal Career Center to post resumes, search for jobs, and prepare for interviews, as they launch their careers.

Member-Only Advantages

- Member Plus affinity program
- online membership directory
- optional public directory listing
- online specialty items catalog
- discounted rates for CLE, networking events, publications, and other services

Become a Sustaining Member

Support

Sixty dollars of every sustaining membership is used to support educational programs and publications of the FBA.

Save

Sustaining members save five percent on national event registrations and publications orders, and are recognized annually in *The Federal Lawyer* and at FBA events.

Sustaining Members also receive one free CLE webinar per year—a $99 value!

Make your mark within the federal legal community.
Sign up for membership today at www.fedbar.org/join.

Contact the FBA at (571) 481-9100 or membership@fedbar.org for more information.

Federal Bar Association

FBA-NDOH Calendar of Events:

September 30– October 1, 2021 *FBA Trial Academy– Opening Statements and Closing Arguments*

October 1, 2021 *State of the Court Luncheon & Installation of FBA Board Officers*

October 4, 2021 *FBA Mentoring Committee– A Guide to Government Employment and Externships*

October 4, 2021 *(Virtual) Brown Bag Luncheon with Senior U.S. District Judge Thomas M. Rose, United States District Court for the Southern District of Ohio*

October 20, 2021 *FBA-NDOH Board Meeting*

November 12, 2021 *AEDPA and the PLRA After 25 Years*

November 17, 2021 *FBA-NDOH Board Meeting*

We add events to our calendar often so please check our website for upcoming events that may not be listed here.

Federal Bar Association
Northern District of Ohio Chapter

Federal Bar Association

STATEMENT OF THE FEDERAL BAR ASSOCIATION BOARD OF DIRECTORS ON JUDICIAL INDEPENDENCE

Judicial independence, free of external pressure or political intimidation, lies at the foundation of our constitutional democracy. An independent judiciary needs to remain free of undue influence from the legislative and executive branches and to remain beholden only to the maintenance of the rule of law and the protection of individual rights and personal liberties. We affirm the right to challenge a judge's ruling for reasons based in fact, law or policy. However, when robust criticism of the federal judiciary crosses into personal attacks or intimidation, it threatens to undermine public confidence in the fairness of our courts, the constitutional checks and balances underlying our government and the preservation of liberty.

The Federal Bar Association is comprised of over 19,000 public and private sector lawyers practicing in our federal courts, hailing from all fifty states and the U.S. Territories. The Federal Bar Association is a non-partisan professional organization created to promote the sound administration of justice and integrity, quality and independence of the judiciary.

SOLACE
Support of Lawyers/Legal Personnel – All Concern Encouraged

Our Chapter supports the FBA's SOLACE program, which provides a way for the FBA legal community to reach out in small, but meaningful and compassionate ways, to FBA members and those related to them in the legal community who experience a death, or some catastrophic event, illness, sickness, injury, or other personal crisis. For more information, please follow this link: http://www.fedbar.org/Outreach/SOLACE.aspx, or contact our Chapter Liaison Robert Chudakoff at rchudakoff@ulmer.com<mailto:rchudakoff@ulmer.com

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If you are a FBA member and are interested in submitting content for our next publication please contact Stephen H. Jett, Prof. Jonathan Entin or James Walsh Jr. no later then November 30, 2021

Next publication is scheduled for Fall 2021.

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