Criminal Law News

Volume 51, Number 1
October 2021

The Newsletter of the Criminal Law Section of the Virginia State Bar

The 52nd Annual Criminal Law Seminar

February 4, 2022
Charlottesville

February 11, 2022
Williamsburg

$120 Section Members
$150 Non-section Members

7.0 hours (2.0 hours Ethics)
CLE Credit *pending*

Co-sponsored by VACLE

Details at http://www.vsb.org/site/sections/criminal/annual-seminar

New Board Members

The Honorable Michael C. Rosenblum. After graduating from Richmond Law in 1998, Judge Rosenblum worked for two years as a prosecutor in the Norfolk Commonwealth's Attorney's office. He then went into private practice handling criminal and traffic defense cases. He also handled civil matters with a concentration on plaintiff's personal injury cases. He assumed the General District Court Bench in Norfolk in late 2014.

The Honorable Erin J. DeHart was appointed to the General District Court bench in July 2015. She currently serves the 27th Judicial District as presiding judge for Pulaski and Radford General District Courts, while also hearing civil dockets in Montgomery County. She was elected as Commonwealth's Attorney for Bland County in 2011, and served in that capacity until her appointment. She was an assistant commonwealth's attorney for Pulaski County and Wythe County prior to her election as Commonwealth's Attorney. Erin completed undergraduate study at Bluefield College in 2003. In 2006, she received her J.D. from Appalachian School of Law.

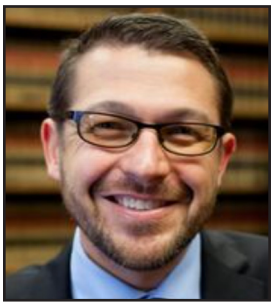
The Honorable Elizabeth W. Hanes is a United States Magistrate Judge for the Eastern District of Virginia, a position she has held since June 2020. Prior to becoming a magistrate judge, Judge Hanes was a trial attorney, having served as an Assistant Federal Public Defender and in private practice handling civil litigation focusing on complex class actions. Judge Hanes was an adjunct professor at Virginia Commonwealth University and the University of Richmond School of Law. She also served as a law clerk for the Hon. Joseph R. Goodwin, District Court Judge, in the Southern District of West Virginia, and for the Hon. Robert B. King, Circuit Judge, in the United States Court of Appeals for the Fourth Circuit. She has been a member of several bar organizations, including the Virginia Women Attorneys Association, the Richmond Bar Association, and served as President and on the Executive Board of the Metropolitan Richmond Women's Bar Association.

The Honorable Elizabeth Kellas is in her 18th year serving as a Judge of the Juvenile and Domestic Relations District Court of the 26th Judicial Circuit. She served as Chief Judge from 2015 through 2018 and presided as a Substitute Judge for 4 years prior to taking the bench. Since 2004, Judge Kellas has served as the Lead Judge for the Winchester/Frederick County local Best Practices Court known as the Northern Shenandoah Valley Alliance for Children, Youth and Families through the Virginia Court Improvement Program. Judge Kellas presently serves on the Executive Committee of the Virginia District Courts and as Chairman of the Statewide Advisory Committee for Virginia's Court Improvement Program setting policies and programs for Virginia's Best Practices Courts. Judge Kellas presently serves as the Chair of the Steering Committee for the Timbrook Achievement Center, a unique detention alternative developed through a community collaborative to serve truant and delinquent youth. Since 2014, Judge Kellas has served ex officio on the Executive Committee of the Northern Shenandoah Valley Substance Abuse Coalition formed to address the substance abuse pandemic in her local community. She has also served as Chairman of the Education Committee of the Judicial Conference of Virginia for District Courts; Virginia Association of Female Judges; appointed by the Chief Justice of Virginia Supreme Court presently to serve on the Senior Judge Study Committee and in past on the Pandemic Flu Commission and Judicial Wellness Committee. Sole Virginia Judicial Representative on Three Branch Institute (Team of Judicial, Legislative, and Executive Committee Members) to Address Significant Issues Related to Foster Care Children and Youth. Since 2013, Mentor Judge for Supreme Court of Virginia (served 6 Mentees); Since 2013, Past Member of the Nominations and Resolutions Committee of the Virginia Supreme Court.

Judge Kellas speaks frequently at conferences and trainings on many child-related topics and substance use disorder topics. Judge Kellas graduated from James Madison University and the University of Virginia School of Law. Growing up, Judge Kellas had over 125 foster children in her home.

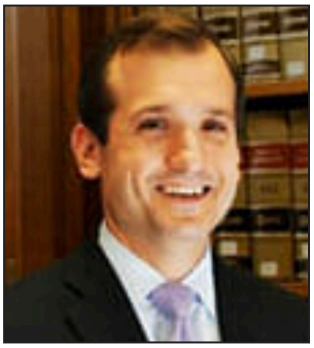
Vernida Rochelle Chaney is an experienced trial and appellate attorney at Chaney Law Firm, PLLC, where she focuses on complex criminal defense and juvenile justice in both the state and federal courts. She graduated from the University of Virginia in 1999 and received her MBA in 2002 from Virginia Commonwealth University. She earned her J.D. from the Howard University School of Law in 2005. She was admitted to practice law in the Commonwealth of Virginia in 2006. She was subsequently admitted to practice in the U.S. Court of Appeals for the Fourth Circuit in 2015 and the U.S. District Court for the Eastern District of Virginia in 2014.

The Honorable Chuck Slemp serves as Commonwealth's Attorney for Wise County and the City of Norton. Prior to his service as Commonwealth's Attorney, Slemp served as Commissioner of Accounts and General Receiver for the Circuit Court of Wise County. He practiced criminal law, domestic relations, local government law, and estate administration. He is a graduate of the University of Virginia's College at Wise with a bachelor's degree in Business Administration. He holds a Master's Degree and a Juris Doctor from Regent University School of Law. He also completed post-graduate study at Oxford University Hertford College in the United Kingdom. Slemp represents the Ninth Congressional District on the Virginia Commonwealth's Attorneys Services Council, is a member of the Virginia Trial Lawyers Association Virginia Criminal Justice Conference, and teaches adjunct at UVa-Wise and Regent University School of Law. ✧



Chair's Column

J. Daniel Vinson



It is hard to believe, with the beginning of the fall season, we find ourselves 18 months into the COVID-19 pandemic. A period that began with Court systems across the Commonwealth and our entire nation grinding to a halt. Now, months later, we are seeing Courts, in large part, reopened and back to business as usual. Yet, for many of us, our criminal practice is hardly business as usual. It is difficult to understate the dynamic changes that occurred across many areas of criminal law during that time.

We are faced with a multitude of law changes that not only affect the substance of criminal offenses and defenses, but also add nuance to the application of Fourth Amendment protections, not to mention the challenges that come with our relatively new criminal discovery scheme. Needless to say, it is easier now than ever to overextend ourselves. This all comes at a time when Public Defenders and Commonwealth Attorneys' offices across the Commonwealth are underfunded and understaffed, and Court appointed counsel is woefully undercompensated. It would seem that the criminal law practice is trending in the wrong direction, but I believe the exact opposite to be true.

Criminal law practitioners, by our very nature, are problem solvers. We navigate unique and complex cases every day. Once the novelty of rule and law changes fade, we will evolve and adapt as practitioners to the point where we will forget any changes were made at all. Yet, my belief in our ability to successfully navigate these challenges has little to do with my conclusion that there has never been a better time to be a criminal law practitioner.

Criminal law lawyers share a collegiality that I have found to be unique in our profession. We zealously advocate our respective positions before the bar, but the adversarial nature of our jobs very rarely carries over outside of the courtroom. Some of my most meaningful professional relationships I have developed have come from across the aisle. My experience has taught me that, aside from criminal litigators, rarely do these types of professional friendships develop.

I acknowledge that my time spent as a lawyer is relatively short compared to many of you, but my career has included a fairly broad civil practice, as well as transactional work. Yet, I have landed as a criminal lawyer. This was intentional. I have chosen to be a criminal lawyer because of you, the criminal bar, not only due to the friendships I value, but also the guidance and advice given by senior members of the criminal bar. I cannot count the number of conversations had or phone calls made, especially when I was a young lawyer, often times to criminal practitioners I had never met and who I only knew by reputation, to ask questions, seek advice, and to propose fact patterns. I was always greeted with a kind ear and enough time to fully answer my questions. I have rarely, if ever, had similar experiences with lawyers of other practice areas. This why I am proud to practice criminal law. I have chosen to make this point in my first Chair's Column, not only because it means so much to me personally, but also to urge and remind you to, despite whatever challenges arise in our day-to-day practice, let us never lose our sense of community. ✧

U.S. SUPREME COURT CRIMINAL LAW AND PROCEDURE DECISIONS

Lombardo v. City of St. Louis, 141 S.Ct. 2239 (2021) Excessive force claim remanded to give the lower court the opportunity to employ an inquiry that clearly attends to all facts and circumstances. E.g., officers placed pressure on the prisoner's back even though St. Louis instructs its officers that pressing down on the back of a prone subject can cause suffocation. The evidentiary record also includes well-known police guidance recommending that officers get a subject off his stomach as soon as he is handcuffed because of that risk. The guidance further indicates that the struggles of a prone suspect may be due to oxygen deficiency, rather than a desire to disobey officers' commands. Having either failed to analyze such evidence or characterized it as insignificant, the lower court's opinion could be read to treat the prisoner's "ongoing resistance" as controlling as a matter of law. Such a ***per se*** ule would contravene the careful, context-specific analysis required by this Court's excessive force precedent. [It is unclear whether the lower court thought the use of a prone restraint—no matter the kind, intensity, duration, or surrounding circumstances—is ***per se*** constitutional so long as an individual appears to resist officers' efforts to subdue him].

Lange v. California, 141 S.Ct. 2011 (2021). Misdemeanors run the gamut of seriousness, and they may be minor. The Fourth Amendment requires a case by case assessment of the exigencies arising from misdemeanants' flight. When the totality of circumstances shows an emergency—a need to act before it is possible to get a warrant—the police may act without waiting. Those circumstances include the flight itself. But pursuit of a misdemeanant does not trigger a categorical rule allowing a warrant-less home entry. [Previous cases have found that emergencies may exist when an officer must act to prevent imminent injury, the destruction of evidence, or a suspect's escape].

Borden v. United States 141 S. Ct. 1817 (2021). A criminal offense with a mens rea of recklessness does not qualify as a "violent felony" under the Armed Career Criminal Act's elements clause.

United States v. Cooley, 141 S.Ct. 1638 (2021). As a "general proposition," the "inherent sovereign powers of an Indian tribe do not extend to the activities of nonmembers of the tribe." However, a tribal police officer has authority to temporarily detain, for potential violations of state or federal law. and to search non-Indian persons traveling on public rights-of-way running through a reservation

Caniglia v. Strom, 141 S.Ct. (2021). Cady v. Dombrowski, 413 U. S. 433, recognized a "commu-nity caretaking exception" to the warrant requirement and upheld a warrantless search of an impounded vehicle for an unsecured firearm. But searches of vehicles and homes are constitutionally different. The very core of the Fourth Amendment's guarantee is the right of a person to retreat into his or her home and "there be free from unreasonable governmental intrusion." A recognition of the existence of "community caretaking" tasks, like rendering aid to motorists in disabled vehicles, is not an open-ended license to perform them anywhere.

FOURTH CIRCUIT COURT OF APPEALS CRIMINAL LAW AND PROCEDURE DECISIONS

United States v. Roof, __ F.4th__, (4th Cir. 2021). A 149-page opinion upholding the murder convictions of Dylan Roof, who in 2015, shot and killed nine members of the Emanuel African Methodist Episcopal Church ("Mother Emanuel") in Charleston, South Carolina.

Plymail v. Mirandy, 8 F.4th 308 (4th Cir. 2021). "The prosecutor's statements exhorting the jury to protect women and send a message to the community and to 'sadomasochistic' persons rendered the trial so fundamentally unfair as to deny due process of law…. Such exhortations improperly invite the jury to focus on a larger social objective beyond the defendant and his crimes."

United States v. Caldwell, 7 F.4th 191 (4th Cir. 2021). "When a warrantless search of a vehicle could have been conducted on the scene pursuant to the automobile exception, a warrantless search is also justified after the vehicle has been impounded and immobilized as long as probable cause still exists…. The passage of time between the seizure and the search of [the defendant]'s car is legally irrelevant and the automobile exception still applies as long as probable cause remains to justify the search."

United States v. Rose, 3 F.4th 722 (4th Cir. 2021). More is needed to establish a reasonable expectation of privacy in a package not bearing the defendant's name than the defendant's subjective intent to receive the package. "When a sealed package is addressed to a party other than the intended recipient, however, that recipient does not have a legitimate expectation of privacy in the

package absent other indicia of ownership, possession, or control existing at the time of the search…. Nonetheless, individuals may assert a reasonable expectation of privacy in packages addressed to them under fictitious names…. In that alleged circumstance, to demonstrate a reasonable expectation of privacy, the defendant must provide evidence that the fictitious name is an established alias…. At the time the search was conducted, the defendants did not have the ability to control access to the package or to exclude others from taking possession of it. Therefore, the defendants failed to present facts showing objective indicia of ownership, possession, or control of the package, foreclosing their ability to challenge the search."

United States. v. Gondres-Medrano, 3 F.4th 708 (4th Cir. 2021). The Court began with the observation that "the use of informants has long bedeviled courts considering searches and seizures under the Fourth Amendment." The Court then reviewed the history of how informants could and could not establish probable cause to search. The informant in this case was reliable because he was known and reliable, having given the police accurate information in the past that led to several successful arrests. The officers had also met with this informant and could evaluate his demeanor and hold him responsible for lying. Moreover, the officers corroborated significant parts of the informant's information.

United States. v. Ziegler, 1 F.4th 219 (4th Cir. 2021). Defendant contended that his "grandiose statements about his legal acumen, his combative approach to witnesses, his bizarre questions and theories, and his arguments with the court should have raised red flags" about his competence to represent himself. The Fourth Circuit upheld the trial court's finding of competence while noting: "Many great trial lawyers are combative and a bit full of themselves, if not outright narcissists. And persons of unquestioned competence have espoused ludicrous legal positions."

United States v. Buzzard, 1 F.4th 198 (4th Cir. 2021). During a traffic stop the officer asked whether there was anything illegal in the vehicle. The question related to officer safety because he was outnumbered, the stop was late at night in a high drug area, and the passenger acted suspiciously. "Given the totality of the circumstances, it makes sense that he needed to know more about what [the occupants] had in the car." The court also stated that "because the question was asked during a lawful traffic stop and didn't prolong the stop, it passes constitutional muster…."

United States. v. Davis, 997 F3rd 191 (4th Cir.2021). ***Arizona v. Gant***, 556 U.S. 332 (2009). held that incident to an arrest, a vehicle may be searched without a warrant if it was reasonable for the police to believe that the arrestee "could have accessed his car at the time of the search." This rule applies beyond the automobile context to the search of a backpack while defendant was handcuffed with his hands behind his back and lying on his stomach. I.e., "Police officers can conduct warrantless searches of non-vehicular containers incident to a lawful arrest "only when the arrestee is unsecured and within reaching distance of the [container] at the time of the search."

United States. v. Santos-Portillo, 997 F.3d 159 (4th Cir. 2021). Although defendant was arrested in violation of a statutory requirement for an administrative warrant, he may not suppress evidence derived from the arrest. The availability of the suppression remedy for statutory, as opposed to constitutional, violations turns on the provisions of the statute rather than the judicially fashioned exclusionary rule aimed at deterring violations of Fourth Amendment rights."). Legislatures have the power to pass laws without creating specific legal consequences that flow from their violation.

United States v. Bartow, 997 F.3d 203 (4th Cir. 2021). Reversed criminal conviction for using "abusive language" in violation of Virginia Code § 18.2-416. "The First Amendment permits criminalization of 'abusive language,' but only if the Government proves the language had a direct tendency to cause immediate acts of violence by the person to whom, individually, it was addressed. The ugly racial epithet used by Bartow undoubtedly constituted extremely 'abusive language.' But because the Government failed to prove (or even to offer evidence) that Bartow's use of this highly offensive slur tended to cause immediate acts of violence by anyone, his conviction cannot stand." The Virginia statute does not (and could not consistent with the First Amendment) criminalize the mere statement of [the N word]. "Even the most egregious racial slur is not a fighting word per se."

VIRGINIA SUPREME COURT CRIMINAL LAW AND PROCEDURE DECISIONS

Nicholson v. Commonwealth, 858 S.E.2d 821 (2021). "The purpose of the notice of appeal is merely to place the opposing party on notice and to direct the clerk to prepare the record on appeal…. we have never required that a notice of appeal be precise, accurate, and correct in every detail before [an] appellate court can acquire jurisdiction over the case in which the notice is filed." Here the notice of appeal was sufficient to identify the case being appealed. It listed her name, the date of the final order, the court in

which the conviction originated, and the correct docket number. Although the notice of appeal incorrectly named the Commonwealth of Virginia rather than Albemarle County, that defect was not fatal and was subject to waiver. Albemarle County entered a general appearance, thus waiving any defect associated with a failure to notify the County.

Logan v. Commonwealth, 299 Va. 741 (2021). A return of service on a preliminary protective order is not testimonial evidence and therefore not subject to exclusion under the Confrontation Clause of the Sixth Amendment. "The relevant inquiry is the primary purpose of a statement when it is made, not at the time of trial…. A reasonable officer would not necessarily expect that the return of service would be used in a later criminal proceeding. The fact that a statement could later be used in a future prosecution does not thereby render it testimonial"

Myers v. Commonwealth, 299 Va. 671 (2021). Code § 18.2-308(C)(8) provides an exception to Code § 18.2-308(A)'s prohibition on carrying a concealed weapon for "[a]ny person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel." Secured does not mean "locked.," nor is it synonymous with "closed" because to fall within the exception, the container within the vehicle must not only be closed, but also must be latched or otherwise fastened. Myers was entitled to the protection of subsection C(8)'s exception to criminal liability for carrying a concealed weapon because the handgun was secured in a container [a backpack] within his personal, private vehicle. The ordinary meaning of "secured" includes a fully latched rigid container [e.g. glove compartment] as well as a fully zipped soft container, such as one made of cloth, canvas, or leather [e.g. the backpack in this case]..

VIRGINIA COURT OF APPEALS CRIMINAL LAW AND PROCEDURE DECISIONS

Jacks v. Commonwealth, 861 S.E.2d 599 (2021). "Although appellant did not have the opportunity to note an objection at the time the circuit court denied his appeal of the lower court's decision, he had the opportunity to challenge and object to the circuit court's decision in a manner that would have been considered timely under Virginia law. See Rules 1:1(a) and 5A:18. For whatever reason, he chose not to do so. Therefore, … we do not find that the Code § 8.01-384(A) exception to the contemporaneous objection rule is applicable under the circumstances of this case ….'

Tyler v. Commonwealth, 73 Va. App. 445 (2021). Denied petition for Writ of Actual Innocence. "Victims of crime, at different times and different places, also can be perpetrators of crimes. The fact that [the victim] committed a misdemeanor in December 2019 does not in any logical way suggest that she was not a victim of strangulation at the hands of [petitioner] in 2016."

Ndunguru v. Commonwealth, 73 Va. App. 436 (2021).. At the beginning of the trial, the trial court invoked and explained the rule on excluding witnesses and those witnesses who were present departed the courtroom. A late arriving witness was not present when the rule was invoked. She entered the courtroom while a man was testifying, and she remained in the courtroom about twenty minutes before told to leave. The court held a hearing on the issue and concluded: "the court does not have evidence that [the overheard testimony] has shaped or had an adulterating effect on her testimony so as to unfairly prejudice the defendant." The court of appeals held that "without adulteration there can be no prejudice to a defendant. "

Allison v. Commonwealth, 73 Va. App. 414 (2021). "The trial court erred in its application of Code § 54.1-3466 when it convicted appellant for possession of controlled paraphernalia based upon his mere knowing possession of a hypodermic syringe…. The Commonwealth adduced no evidence of circumstances reasonably indicating that appellant intended to use the syringe in his possession to illegally administer a controlled drug, as required by the statute. Appellant did not have any drugs in his possession when he was arrested, and a K-9 search of the area surrounding the arrest did not locate any drugs. The syringe, … was capped, clean, and appeared to be brand new. Further, the Commonwealth did not present any forensic evidence to indicate the presence of any drug residue in or on the syringe. Accordingly, the evidence was insufficient to support a conviction under Code § 54.1-3466 and the trial court erred in denying appellant's motion to dismiss and his motions to strike."

Johnson v. Commonwealth, 73 Va. App. 393 (2021). Code § 18.2-386.1(A)(i) prohibits recording another person, naked, without her consent, when in her bedroom, where she had a reasonable expectation of privacy. The evidence supports the circuit court's finding that D.B. had a reasonable expectation of privacy that she would not be videorecorded, regardless of her consent to Johnson's presence, or her inability to expressly object at the time he made the recordings.

Ruff v. Commonwealth, 73 Va. App. 405 (2021). The trial court, providing Ruff with a telephone to communicate with defense counsel during the closed-circuit testimony of a child victim met the statutory requirement of Code § 18.2-67.9 that a defendant be provided with a means of "contemporaneous communication." [The trial court provided defendant with a telephone on which he could press any two numbers, which would cause the phone to ring in the anteroom so that he could communicate with his counsel.

Poole v. Commonwealth, 73 Va. App. 357 (2021) The common law rule regarding marital rape has been entirely abrogated by amended Code § 18.2-61(B) which removed the "separate and apart" and "physical injury" requirements. Thus, the trial court did not err in denying appellant's motions to strike and reconsider on this ground. In addition, "a conviction for rape and other sexual offenses may be sustained solely upon the uncorroborated testimony of the victim."

King v. Commonwealth, 73 Va. App. 349 (2021). Case of first impression upholding conviction for escaping from the custody of a jail, court, or law enforcement officer. "Appellant remained in custody during his time in HIP. [home incarceration program]. While appellant was not actually incarcerated in jail or prison, his freedom of movement was heavily restricted. Appellant was allowed to leave his residence only to travel to and from work; he could not leave his residence for any other reason. Furthermore, the control over appellant's movement was not purely constructive. Appellant was subject to continuous GPS monitoring via an ankle monitor to ensure his compliance. Taken together, these restrictions on appellant's freedom of movement are severe and of a degree associated with incarceration in a jail or prison."

Cox v. Commonwealth, 73 Va. App. 339 (2021). "Code § 19.2-301 does not independently require trial courts to order a mental examination of a defendant prior to sentencing. Instead, it simply provides that when the process of securing a mental examination of a defendant is initiated pursuant to Code § 19.2-300, a judge "shall" thereafter order a mental examination in accordance with specific parameters and procedures." A trial court is required to defer sentencing of a defendant only when one of the parties requests mental examination of the defendant.

Mollenhauer v. Commonwealth, 73 Va. App. 318 (2021). "The term 'cruelly treated,' as used in Code § 40.1-103, describes engaging in behavior toward another that causes physical or emotional pain or suffering in that other person." The evidence here supports the trial court's finding that the appellant caused or permitted S.M. to be cruelly treated. Among other things the child was forced to sleep in a cage at night.

McDaniel v. Commonwealth, 73 Va. App. 299 (2021). Blood spatter analysis "involves the application of principles of physics, chemistry, biology, and mathematics. Depending on the type of stain and the circumstances, a number of different conclusions can be reached, such as the cause of the stain, its point of origin, and the direction in which the blood droplets were going at impact." . The analysis is "clearly a well recognized discipline, based upon the laws of physics, which undoubtedly assist[s] the jurors in understanding what occurred." The fact that the expert reached her conclusions after reviewing photographs and did not go to the crime scene at most goes to the weight of her testimony rather than its admissibility.

Bailey v. Commonwealth, 73 Va. App. 250 (2021). In determining whether a circuit court retains jurisdiction over a matter when it issues a ruling, the critical event is 21 days after the circuit court's entry of a written order and not any pronouncements the circuit court may make from the bench. "A court speaks only through its written orders. And, orders speak as of the day they were entered." The circuit court's oral ruling regarding Bailey's motion to reconsider is of no moment even though it occurred while the circuit court had jurisdiction, because the circuit court did not enter a written order memorializing that oral ruling until the next day, twenty-two days after its entry of the final order.

MEMBER RESOURCES AREA

http://www.vsb.org/site/sections/criminal/

ELECTRONIC NEWSLETTERS FOR SECTION MEMBERS

Don't miss the opportunity to receive your newsletters electronically. To post your email address, visit the VSB's website at https://member.vsb.org/vsbportal/

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Username: **criminallawmember**

Password: **Ywn9783**

This site is available only to Section members

CALL FOR NOMINATIONS

Harry L. Carrico Professionalism Award

VSB Section on Criminal Law

The Harry L. Carrico Professionalism Award was established in 1991 by the Section on Criminal Law of the Virginia State Bar to recognize an individual (judge, defense attorney, prosecutor, clerk, or other citizen) who has made a singular and unique contribution to the improvement of the criminal justice system in the Commonwealth of Virginia.

The award is made in memory of the Honorable Harry L. Carrico, former Chief Justice of the Supreme Court of Virginia, who exemplified the highest ideals and aspirations of professionalism in the administration of justice in Virginia. Chief Justice Carrico was the first recipient of the award, which was instituted at the 22nd Annual Criminal Law Seminar in February 1992.

Although the award will only be made from time to time at the discretion of the Board of Governors of the Criminal Law Section, the Board will invite nominations annually. Nominations will be reviewed by a selection committee consisting of former chairs of the section.

Prior Recipients

The Honorable Harry L. Carrico	1992	Hon. Paul B. Ebert	2006
James C. Roberts, Esquire	1993	Rodney G. Leffler	2007
Oliver W. Hill, Esquire	1995	Prof. Ronald J. Bacigal	2008
Hon. Robert F. Horan	1996	Hon. Jere M.H. Willis Jr.	2010
Reno S. Harp III, Esquire	1997	Melinda Douglas	2012
Hon. Richard H. Poff	1998	Claire G. Cardwell	2013
Hon. Dennis W. Dohnal	1999	Gerald T. Zerkin	2014
Hon. Paul F. Sheridan	2000	Hon. Jerrauld C. Jones	2015
Hon. Donald H. Kent	2001	Hon. Michael N. Herring	2016
Craig S. Cooley, Esquire	2002	Philip J. Hirschkop	2017
Prof. Robert E. Shepherd	2003	Hon. Martin F. Clark Jr.	2018
Richard Brydges, Esquire	2004	Hon. M. Hannah Lauck	2019
Overton P. Pollard, Esquire	2005	Hon. Junius P. Fulton III	2020

Criteria

The award will recognize an individual who meets the following criteria:

◆ Demonstrates a deep commitment and dedication to the highest ideals of professionalism in the practice of law and the administration of justice in the Commonwealth of Virginia;

◆ Has made a singular and unique contribution to the improvement of the criminal justice system in Virginia, emphasizing professionalism as the basic tenet in the administration of justice;

◆ Represents dedication to excellence in the profession and "performs with competence and ability and conducts himself/herself with unquestionable integrity, with consummate fairness and courtesy, and with an abiding sense of responsibility." (Remarks of Chief Justice Carrico, December 1990, Course on Professionalism.)

Submission of Nomination

Please submit your nomination on the form below, describing specifically the manner in which your nominee meets the criteria established for the award. If you prefer, nominations may be made by letter.

Nominations should be addressed to **J. Daniel Vinson**, Chair, Criminal Law Section, and mailed to the Virginia State Bar Office: 1111 East Main Street, Suite 700, Richmond, VA 23219-0026. **Nominations must be received no later than December 3, 2021.** Please be sure to include your name and the full name, address, and phone number of the nominee.

If you have questions about the nomination process, please contact Maureen D. Stengel, Director of Bar Services, Virginia State Bar, at (804) 775-0517 or stengel@vsb.org.

Harry L. Carrico Professionalism Award

NOMINATION FORM

Please complete this form and return it to the Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026 or email stengel@vsb.org. **Nominations must be received no later than December 3, 2021.**

Name of Nominee: _____

Profession: _____

Employer/Firm/Affiliation: _____

Address of Nominee: _____

_____

_____

City _____ State _____ Zip _____

Name of person making nomination _____ Telephone _____

(Please print)

Email _____ Signature _____

(Please attach an additional sheet explaining how the nominee meets the criteria for the Harry L. Carrico Professionalism Award.)

Criminal Law News

Virginia State Bar
1111 East Main Street, Suite 700
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