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David H. Hugel Esq.

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Recent Developments

Administrative Adjudication, an Idea Whose Time Has Come

by David H. Hugel, Esq.

Primarily in response to an overwhelming criminal and traffic court caseload, the State of New York in 1970 became the first jurisdiction in this country to remove minor traffic offenses from the criminal court system. This was implemented by an innovative pilot project in New York City for processing such matters administratively by an adjudication division within the State Motor Vehicle Division. The success of this project has resulted in its being expanded to include additional jurisdictions within New York State and the implementation of similar administrative adjudication programs in Rhode Island and the District of Columbia, as well as in the initiation of pilot projects in the city of Seattle, Washington and three California counties.

Simply stated, administrative adjudication applies modern technology and procedures to the trial of motor vehicle offenses. Administrative adjudication removes the trial of such cases from overcrowded court dockets by transferring responsibility for the factual determination of whether or not a motorist committed a given offense to an administrative agency, such as the motor vehicle department, or quasi-judicial forum where trained hearing officers first make that judgment, and then invoke appropriate administrative licensing sanctions.

It should be emphasized that this simplified procedure applies only to minor traffic offenses which have been decriminalized and do not carry the possibility of incarceration. It is also important to note that motorists retain their right to an ultimate judicial review of any administrative determination, although the New York State experience which provides for an intermediate administrative review indicates that nearly all cases are resolved in the administrative forum making further appeal to the courts unnecessary.

Among the acknowledged benefits of administrative adjudication is the reduction of court caseloads and delays associated with the trial of such cases within the court system. According to one comprehensive study evaluating New York's administrative adjudication system, "elimination of the almost 800,000 traffic cases from the criminal courts had freed a large number of judges to devote their attention to more serious criminal matters. Estimates of the actual number have varied, but go as high as eighteen. It was felt that this has had a salutary effect on criminal court backlogs and delays." *See A Report on the Status and Potential Implications of Decriminalization of Moving Traffic Violations*, U.S. Department of Transportation, NHTSA Contract No. DOT-HS-123-1-179, Arthur Young and Company (1972).

Viewed from a highway safety perspective, the greatest benefit of administrative adjudication is that it reduces the time between when an offense occurs, when it is adjudicated and when appropriate sanctions are applied. Instead of being required to await a formal court proceeding, followed by the inherent delay between the time of that trial and when its results are acted upon by the driver licensing authority, a consolidated administrative adjudication system allows the immediate imposition of administrative sanctions following a determination of guilt by the reviewing authority.

In addition, combining the adjudication of guilt hearing with administrative sanction procedures is more convenient for motorists. They need only appear at one proceeding which is conducted in a more relaxed atmosphere than the formal courtroom setting where traffic cases are normally tried. Studies have also shown that, once implemented, an administrative adjudication system should be more cost effective than the traditional court/administrative hearing system since it reduces personnel and other costs associated with operating a dual system.

Administrative adjudication, being non-criminal in nature, also allows for relaxed rules of evidence and a lesser burden of proof, such as clear and convincing evidence. Under some systems, motorists who do not contest the basic facts, but who wish to present mitigating evidence may tender a plea of guilty with explanation, thereby saving untold hours of time for police officers who need not appear at trial since the basic facts of the incident are uncontroverted. To fully appreciate the ramifications of handling traffic offenses administratively, one must remember that in the majority of states traffic offenses are currently classified as misdemeanors and tried in the criminal courts. As such, they are subject to the same rules and procedures, and offenders are protected by the same constitutional safeguards as for any other crime. The extent of those Constitutional rights need not be examined here. However, the U.S. Supreme Court has made it clear that these rights include, depending upon whether or not incarceration may be imposed, the right to counsel, *Scott v. Illinois*, 440 U.S. 367 (1979); and the right to jury trial, *Duncan v. Louisiana*, 391 U.S. 145 (1968). In such cases the state also has a high burden of proof, since it must prove the defendant guilty beyond a reasonable doubt and to a moral certainty.

While such safeguards are essential to protect the rights of defen-

dants charged with criminal offenses from government abuses, they have no place in a modern driver control system whose goal is not to punish the guilty, but to identify the errant driver and to take corrective action designed to prevent the driver from causing injury or damage to himself or others. Yet, in the great majority of states, traffic offenses are still tried in the criminal court system as they have been since the first ordinances and laws were enacted to control the horseless carriage when it appeared on American highways around the turn of the century.

There is little justification for continuing to try minor traffic offenses in a court system burdened by caseloads, when viable alternatives are available which could relieve this situation. Changing traditional methods of doing business, particularly those involving long established court procedures, however, often requires overcoming entrenched opposition from special interests which may feel threatened by such changes. It is ironic that such resistance often comes from those who would benefit the greatest from proposed changes. Law enforcement officials, the defense bar, the courts and the motorists themselves, must fully appreciate the potential benefits to be derived from changing current adjudication procedures before they can be expected to support any modification of the present system. The adoption of this innovative alternative to the traditional method for handling traffic offenses, would be a small, but significant step toward modernizing our archaic court system. Streamlining the driver control system by consolidating adjudication and sanctioning procedures should also result in a more efficient and effective highway safety effort.

(David H. Hugel first became interested in administrative adjudication as a former staff aide and public information officer for the Commissioner of the Maryland Department of Motor Vehicles. Mr. Hugel, a 1973 graduate of University of Baltimore School of Law, has served as an Assistant State's Attorney for Baltimore County, and as Assistant Counsel with Northwestern University's Traffic Institute. In his present position as Maryland State's Attorney's Coordinator, Mr. Hugel develops and conducts legal education programs for state prosecutors. He also publishes a bi-monthly newsletter devoted to reviewing and interpreting current appellate court decisions, and serves on numerous boards and committees, including the Governor's Task Force on the Drinking Driver. Mr. Hugel has lectured extensively on legal and highway safety issues.)

* * *

In *Harper v. Harper*, __Md. __, 448 A.2d 916 (1982), The Court of Appeals took the opportunity to refine the approach to the classification and division of marital property. This decision will affect how Maryland courts will determine an equitable distribution of property in an action for divorce under Maryland's Marital Property Disposition in Divorce and Annulment Act [hereinafter referred to as MPDA], Md. Cts. & Jud. Proc. Code Ann. §§ 3–6A–01 to –07 (1974, 1980 Repl. Vol. & 1981 Cum. Supp.).

The decision included a dispute over the division of the interests of the divorcing spouses in a parcel of land which the husband had acquired, and paid for in part prior to the marriage, pursuant to a land installment contract and the spouses' respective interests in the house that was constructed on the property by the expenditure of marital funds. Mr. Harper argued that the lower courts' decisions, which divided the parties' interests in the land and house equally, were inequitable as the parcel of land had been acquired prior to the marriage. The Court of Appeals upheld in part and reversed in part the lower appellate court's holding and ordered the case remanded to the trial court for further proceedings in accordance with its opinion.

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In so doing, the court indulged in a lengthy review of the statutory history of MPDA and of the prevailing doctrines which other states with similar statutes have employed in enforcing those statutes. While stressing the importance of protecting the interests of spouses who had made monetary and nonmonetary contribution to the marital unit and residence, the court considered and rejected two competing theories adopted by a majority of its sister jurisdictions: (1) the "inception of title theory," which grants title to the spouse who had acquired an equitable right to the property prior to the marriage, even though not perfected, and (2) the "transmutation of property theory," which classifies property as marital for the purpose of equitable distribution when there has been a contribution of marital funds to nonmarital property. Instead, the court held that under the MPDA, the appropriate analysis to be applied is the "source of funds theory."

> Under that theory, when property is acquired by an expenditure of both nonmarital and marital property, the property is characterized as part nonmarital and part marital. Thus, a spouse contributing nonmarital property is entitled to an interest in the property in the ratio of the nonmarital investment to the total nonmarital and marital investment in the property. The remaining property is characterized as marital property subject to an equitable distribution.

Harper, ___Md. at ___, 448 A.2d at 929.

The court stated that the "source of funds theory" is consistent with the language of § 3–6A–01(e), which sets forth an exclusive list of nonmarital property and indicates a legislative intent that certain property not be subject to equitable distribution, specifically, property which is acquired prior to the marriage. Additionally, to best effectuate the imposition of its holding, the court adopted an interpretation of the term "acquired" appearing in § 3–6A–01(e) as:

> The on-going process of making payment for property. *Tibbets*, 406 A.2d at 77. Under this definition, characterization of nonmarital or marital property depends upon the source of each contribution as payments are made, rather than at the time legal or equitable title or possession of the property is obtained.

Id. at ___, 448 A.2d at 929.

Thus, in light of the court's newly adopted source of funds theory and interpretation of the term "acquired," it remanded the case to the trial court so that there might be a determination as to: (1) the source of the funds expended for the parcel of land and the improvements made thereon by the spouses individually and as a unit; (2) the degree to which the parcel of land and the marital residence are to be characterized as marital and/or nonmarital; and (3) the value of the marital property. The aforementioned factors are all relevant in the court's determination of an equitable distribution of the property in issue.

The decision adds some clarification to the MPDA which to this date remains a statute relatively undefined by case law. It seems to reaffirm that Maryland courts have little or no intention of becoming a community property jurisdiction, as evidenced by the Court of Appeals's rejection of the "inception of title theory" and the "transmutation of property theory."

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Recent Developments in Maryland's Intestate Succession Law

The 1982 amendment to Md. Est. & Trusts Code Ann. § 3–102 (1974), is a welcome change to Maryland's intestate succession law. The legislature's purpose for enacting the amendment was to reflect the intestate's desire to have the greater portion of the estate go to the surviving spouse.

Under the statute as it existed prior to 1981, a surviving spouse received only one third of the deceased's estate if there was a surviving issue. If there was no surviving issue, but a surviving parent of the deceased, then the spouse's share of the estate increased to one half. And, if there were no surviving issue or parents, but a surviving sibling of the deceased, then the spouse's share became one half of the residue of the estate plus $4,000.00. Thus, the only way a surviving spouse was entitled to receive the entire estate was if there were no surviving issue, parents or siblings of the deceased. Md. Est. & Trust Code Ann. § 3–102 (1974).

The 1981 amendments to the law increased the spouse's distribution of the estate to one half regardless of whether there was a surviving issue or parent. Absent a surviving issue or parent, the spouse received the entire estate regardless of whether or not there was a surviving sibling. Md. Est. & Trust Code Ann. § 3–102 (1981).

The 1982 amendment gives the surviving spouse an even greater portion of the estate if the surviving issue is an adult as opposed to a surviving minor issue. If the surviving issue is an adult, then the spouse will be entitled to the first $15,000 of the estate plus one half of the residue. The same entitlement ap-