

# LETTERS FROM THE LIBRARY

NEWSLETTER OF THE STATE LAW LIBRARY OF MISSISSIPPI

*"There shall be ... a library ... known as the state library"*  
An Act to provide for a State Library – General Laws, 1838

August 2023

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## State Library Hours

Monday – Friday  
8am – 5pm

## Library Staff

Stephen Parks – State Librarian  
[sparks@courts.ms.gov](mailto:sparks@courts.ms.gov)

Casandra Noel – Catalog Librarian  
[cnoel@courts.ms.gov](mailto:cnoel@courts.ms.gov)

LaTavius Jackson – Reference Librarian  
[ljackson@courts.ms.gov](mailto:ljackson@courts.ms.gov)

Russell Patterson – Circulation Librarian  
[russell.patterson@courts.ms.gov](mailto:russell.patterson@courts.ms.gov)

## New Books by former Judge and former Justice

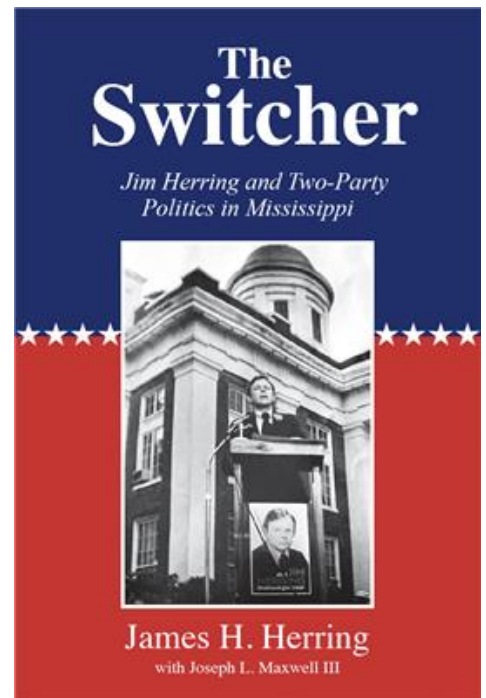
One book by former Court of Appeals Judge Jim Herring has been published, and one book by former Supreme Court Justice James L. Robertson will be published this fall.

Judge Herring's book, [The Switcher](#), was published in June of this year. He recently appeared on the Career Memoir panel at the Mississippi Book Festival. Appointed to the Court of Appeals by Governor Kirk Fordice, Herring served 1997-1999.

A description of **The Switcher** reads: *The son of passionate conservative Democrats, Jim Herring ultimately became the only state chairman of the Mississippi Republican Party to serve previously on the Mississippi Democratic Party Executive Committee. Given his family's deep Democratic roots, this proved quite a journey! Jim's father was a Mississippi state senator. His father-in-law's college roommate was a future U.S. senator, Jim Eastland, and the two men were best friends for life.*

*The Switcher is Jim's vivid, birds-eye account of the politicians, parties, and principles that competed for voters' allegiances from the 1960s through 2008 in Mississippi.*

*Readers witness unfurling political events, power plays, and personalities as the state's upstart Republicans battled to achieve a viable two-party system against the state Democratic machine that was set on preserving its good-old-boy, powerful vice grip on state politics.*



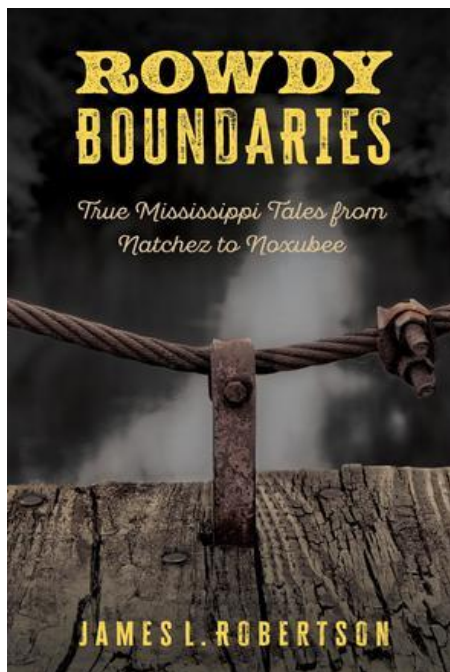
*After solid but unsuccessful races as a Democrat for lieutenant governor (1975) and governor (1979), Jim grew increasingly disillusioned with the MDP's constant infighting and disorganization. Meanwhile, Ronald Reagan became president of the United States. Captivated by Reagan's articulate, optimistic conservatism, Jim moved into the MRP in the early 1980s.*

*This made Jim a "switcher," a sometimes less-than-flattering label applied to MRP newcomers. With time and hard work, however, Jim was elected in 2001 as MRP chairman, a post he held through 2008. He also rose nationally to become the Republican National Committee's Chairman of the State Chairmen, a role that placed him on the RNC Executive Committee as a leader at the 2008 Republican National Convention.*

*As MRP chairman from 2001 to 2008, Jim's chief passion was to see Mississippi develop a real two-party system that operated along partisan lines so voters could be informed about both parties' real goals and convictions. In 2007, his last full year as state chairman, Mississippi Republicans took control of the Mississippi Senate for the first time since Reconstruction.*

*One well-known political columnist wrote that, for Jim, the major power shift "had to be a sweet victory."*

Justice Robertson's book, [Rowdy Boundaries: True Mississippi Tales from Natchez to Noxubee](#), will be published this November. He served on the Mississippi Supreme Court from 1983-1992. His earlier book, [Heroes, Rascals, and the Law: Constitutional Encounters in Mississippi History](#), was published in 2018.



A description of **Rowdy Boundaries** reads: *Dwelling along the Mississippi River, the Tennessee state line, the Tenn-Tom Waterway, and the Gulf of Mexico are a trove of characters with fascinating lives and histories. In Rowdy Boundaries: True Mississippi Tales from Natchez to Noxubee, author James L. Robertson weaves these stories to reveal a tapestry of Mississippi's border counties and the towns and people that occupy them. From his unique vantage as a former Mississippi Supreme Court justice and seasoned lawyer, he documents the legal, geographical, and biographical tales revealed during his journeys along and within the state lines.*

*The volume features the true stories of musicians, authors, portrait painters, and football players, as well as political activists, educators, politicians, and judges. Also featured are tributes to noteworthy newspaper editors and columnists for their many contributions over the years. Robertson covers pivotal moments in Mississippi history, including the Mississippi Married Women's Property Act of 1839, the development of Chinese*

*culture in the Mississippi Delta, and 1964 Freedom Summer. He does not shy away from the tragedies of the past, discussing lynchings and murders that still haunt the state today. From ghost towns in Jefferson County to the Slugburger Festival in Corinth, stopping en route for a mint julep in Columbus, Robertson puts a human face on Mississippi history and tells a good yarn along the way.*

# NextGen Bar Exam to incorporate Legal Research



One of the most heavily attended sessions at this year's American Association of Law Libraries Conference was *What You Need to Know About the Next Gen Bar Exam*. Panelists representing Rutgers University, University of Hawaii, Sheppard Mullin, and the National Conference of Bar Examiners discussed, among many things, ways in which law school bar prep will change, ways in which law librarians can be more proactive in their approach to curriculum, and the recently released [Sample Questions](#). The NextGen Bar Exam will launch in July 2026.

Along with eight Foundational Concepts and principles (think of your traditional Civil Procedure, Torts, Real Property, etc.), the Exam will include seven Foundational Skills organized into the following four broad skill areas:

- Issue Spotting and analysis, investigation and evaluation;
- Client counseling and advising, negotiation and dispute resolution, client relationship and management;
- Legal Research; and
- Legal writing and drafting

## Sample Question 1:

You are a criminal defense lawyer representing a client who has been charged with fentanyl possession. The police found the fentanyl in the guest bedroom of the client's uncle's house when responding to a noise complaint at the house. Before entering the house, the officers knocked on the door. When the uncle answered the door, the officers asked if they could look inside the house, and the uncle agreed. The client did not live in the house and was not there at the time of the search. The client had stayed in the guest bedroom of the house two nights prior to the search. The uncle told the officers that the client was the last person to have slept in that room.

You are considering filing a motion to suppress the fentanyl under the Fourth Amendment.

Which of the following legal topics are the most important for you to research to determine the likelihood of success on a motion to suppress? Select two.

*Consent search.*

*Exigent circumstances.*

*Hot pursuit.*

*Probable cause.*

*Reasonable suspicion.*

*Standing.*

Sample Question 2:

Your client owns a carpet cleaning company. The company recently contracted with a customer to clean the carpets throughout the customer's ten-story building for \$15,000, with payment due in 30 days. Before payment was due, the customer sent your client a check for \$12,000 along with a note specifying that several of the carpets still had stains and included pictures of the stained carpets. The customer's note also said that if your client cashes the check, the remainder of the customer's debt will be discharged.

Your client now seeks your advice as to whether the company can cash the check without relinquishing its right to recover the remainder of the customer's debt.

Which of the following search term(s) would be the most likely to produce resources that will answer the client's question? Select one.

*Accord and satisfaction.*

*Consideration.*

*Novation.*

*Offer and acceptance.*

Find the answers to these two sample questions [here](#).

## Court of Appeals and AOC created Thirty Years Ago

Legislation creating the Court of Appeals of the State of Mississippi and the Administrative Office of Courts was approved thirty years ago on April 15, 1993. The legislation provided for a Court of five (5) judges and would be amended the next year to raise the number to ten (10) judges. Elections for those five judges, according to the bill as passed, were to take place "on the first Monday after the first

Tuesday in November 1994."

### **CHAPTER NO. 518 HOUSE BILL NUMBER 548**

**AN ACT TO ESTABLISH THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI; TO PROVIDE THAT JURISDICTION OF SUCH COURT SHALL BE LIMITED TO CASES THAT ARE ASSIGNED TO IT BY THE STATE SUPREME COURT; TO PROVIDE FOR LIMITED CERTIORARI REVIEW BY THE SUPREME COURT OF DECISIONS OF THE COURT OF APPEALS; TO PROVIDE TIME LIMITATIONS FOR RENDERING DECISIONS; TO PROVIDE FOR THE ELECTION OF THE JUDGES OF THE COURT OF APPEALS, THEIR QUALIFICATIONS AND TERMS OF OFFICE; TO PROVIDE THAT THE ADMINISTRATIVE STRUCTURE OF THE COURT OF APPEALS SHALL BE ESTABLISHED BY THE SUPREME COURT; TO PROVIDE FOR A UNIFIED APPEAL PROCESS; TO AUTHORIZE THE COURT OF APPEALS TO SIT IN PANELS; TO PROVIDE FOR THE LOCATION AND**

A notation in the General Laws deemed this to be an obvious and patent error and indicated the elections would coincide with other judicial and congressional elections on the first Tuesday after the first Monday in November 1994.

CHAPTER NO. 610  
SENATE BILL NUMBER 2620

AN ACT TO CREATE THE ADMINISTRATIVE OFFICE OF COURTS; TO PROVIDE THAT THE PURPOSE OF THE OFFICE SHALL BE TO ASSIST IN THE EFFICIENT ADMINISTRATION OF THE NONJUDICIAL BUSINESS OF THE COURTS; TO CHARGE THE OFFICE WITH THE DUTY OF ASSISTING THE CHIEF JUSTICE OF THE SUPREME COURT AND OTHER DUTIES; TO PROVIDE FOR THE APPOINTMENT OF THE ADMINISTRATIVE DIRECTOR; TO AUTHORIZE THE ADMINISTRATIVE DIRECTOR TO EMPLOY ASSISTANTS AND OTHER EMPLOYEES; TO PROVIDE FOR THE DUTIES OF THE ADMINISTRATIVE DIRECTOR; TO AUTHORIZE THE ADMINISTRATIVE DIRECTOR TO APPLY FOR FUNDS AND GRANTS; TO REQUIRE THE ADMINISTRATIVE DIRECTOR TO COORDINATE THE FUNCTIONS AND DUTIES OF ADMINISTRATIVE PERSONNEL; TO AUTHORIZE THE ADMINISTRATIVE DIRECTOR TO EMPLOY CONSULTANTS; TO AUTHORIZE THE CHIEF JUSTICE OR ADMINISTRATIVE DIRECTOR TO USE THE SERVICES OF ANY MEMBER OF THE COURT AND COURT-SUPPORTIVE PERSONNEL; TO CREATE THE MISSISSIPPI JUDICIAL ADVISORY STUDY COMMITTEE; TO PROVIDE FOR THE OFFICERS AND MEMBERSHIP OF THE MISSISSIPPI JUDICIAL ADVISORY STUDY COMMITTEE; TO AUTHORIZE ANY NECESSARY STUDIES, HEARINGS, RESEARCH AND OTHER ACTIVITIES TO ASSIST THE STUDY COMMITTEE; TO AUTHORIZE OTHER AGENCIES OF GOVERNMENT TO ASSIST THE STUDY COMMITTEE; TO AUTHORIZE HIRING OF SUPPORT PERSONNEL; TO AUTHORIZE THE PAYMENT OF A PER DIEM AND TRAVEL EXPENSES; TO REQUIRE A REPORT TO THE LEGISLATURE; TO AUTHORIZE THE EXPENDITURE OF APPROPRIATED AND OTHER FUNDS; AND FOR RELATED PURPOSES.

## New appellate court will ease case load, bar president says

The Associated Press

Chief Justice Armis Hawkins said he and his Mississippi Supreme Court colleagues are pleased with the Legislature's enactment of a new, five-judge appellate court to help clear a backlog of cases.

"We're all delighted," said Hawkins. "It's pretty well what we recommended to the Legislature."

The president of the Mississippi State Bar also said citizens should benefit by speeding up the pace of the legal system.

The 1993 Legislature created an intermediate court of appeals, set up a state administrative office of the courts and gave judges a raise and some office help. They also changed how courts handle injury lawsuits.

The nine justices met with legislators in 1989 to propose ways to ease the two- to three-year backlog of cases. Four years later, legislators adopted the recommendation and

created an appeals court.

Hawkins said the new court of five elected judges would "handle all subjects with the exception of death penalty and serious constitutional cases."

Oxford attorney Grady Tollison, president of the State Bar, said the changes should produce four benefits:

■ The time for appeal of convicted felons should be shortened.

■ Giving trial court judges office help means "the judge will spend more time trying cases and leave the administration to others."

■ Judges' salaries of \$82,000 within two years will bring in better judges and keep the good ones, said Tollison, whose organization worked for three years on the court reform proposal.

■ The administrative office of the courts, first proposed in 1930, will give lawmakers accurate information about the system's condition.



## EDITORIAL

### *Intermediate appeals court given yet another boost*

A conference committee in the Legislature is studying different House and Senate plans to set up an intermediate appellate court in Mississippi, and Senate Judiciary Committee Chairman Hainon Miller says he expects positive results before the current session ends.

Possibly to garner support among legislators, Armis Hawkins, chief justice of the Mississippi Supreme Court, addressed a joint session of the legislature last week. He urged the lawmakers to do their part to help relieve a steadily increasing backlog of cases awaiting action by the state's high court.

The speaker said it takes an average of two years for an appeal to be decided by the Mississippi Supreme Court, and in the last three years judges have handled more than 100 cases a piece.

"This is begging for a catastrophe," Hawkins said. "We have caught some grievous mistakes, caused altogether from taking on more cases than we can competently and efficiently handle. Even more deplorable are those many errors that we may not have caught."

The chief justice also reminded lawmakers that the proposed intermediate appellate court would not be solely to accommodate lawyers but would also be "a bill for the people, to relieve the suffering of men, women and children whom (legislators) serve."

During 1992, recent data shows, more than 125,000 lawsuits were filed in Mississippi, and more than 1,083 appeals were filed. A total of 940 Supreme Court decisions were handed down, an average of 104 cases per judge.

An article that appeared in a recent issue of **Public Administration Survey**, published at The University of Mississippi, reports that "Over the past two decades filings before the (Mississippi Supreme) Court have risen more than 100 percent. In 1990, Mississippi ranked third in total appellate filings among states without an intermediate appellate court. That same year the disposition rate for the Supreme Court stood at 76 percent and from all indications continues to decline."

The same article observes that filings in the chancery and circuit courts have increased more than 30 percent over the past five years. So a self-correction of the overload seems unlikely.

Most people in the state's legal community seem to agree that an intermediate appellate court would bring needed flexibility and finality to the appellate process.

How does our state compare with others in this particular matter? Thirty states now are operating intermediate appeals courts, and Mississippi is said to be the only state in the South without such a court.

The authors of the article which was quoted a few paragraphs back concluded that "Enhanced appellate capacity through both the addition of a court of appeals and the implementation of more efficient case processing procedures, promises to aid our state judiciary in the performance of its chief responsibilities. Routine cases can be reviewed for error without spending years on appeal. And the Supreme Court could devote more time to the difficult matters of judicial policy."

So the Legislature is under pressure to move ahead rapidly with the legislation now before it and -- in the process -- take a first big step during its current session to enhance the productivity of our court system. If they're being prodded a bit these days, it's because they don't have too much more time to get the job done.