

Bell named to head Md. high court

Glendening appoints black judge to lead Court of Appeals

Succeeds retired Murphy

Also-ran Wilner is picked to fill appeals court vacancy

By MICHAEL DRESSER
SUN STAFF

Proclaiming "a momentous day in the judicial history of Maryland," Gov. Parris N. Glendening named Baltimore's Robert M. Bell yesterday to become the 23rd chief judge in the 220-year history of the Maryland Court of Appeals.

Bell, 53, was immediately sworn in at an emotional ceremony at the State House in Annapolis.

"I am no stranger to challenges," said the beaming judge, who rose from poverty in East Baltimore to serve on the same court that voided his 1964 trespassing conviction for participating in a civil rights sit-in at Hooper's Restaurant in downtown Baltimore.

In the crowded reception room were many of the state's leading black lawyers and public officials, ecstatic to see the governor make history by appointing the first African-American to head the state's highest court.

"He was selected because he was the best," said Glendening, who noted that Bell is the only active member of

the Maryland judiciary to serve four years or more at each level of the state's court system.

Bell succeeds Judge Robert C. Murphy, who held the post for 24 years before reaching the state's mandatory retirement age of 70 this month.

In choosing Bell, the governor

passed over Alan M. Wilner, chief judge of Maryland's second-highest court, the Court of Special Appeals, and the favorite of much of Maryland's legal establishment.

Instead, Glendening named Wilner to fill the vacancy created on the Court of Appeals by Murphy's retirement.

Glendening also named Joseph F. Murphy Jr., 52, a member of the Court of Special Appeals from Baltimore County, to replace Wilner as chief judge of that court. Only Wilner requires state Senate confirmation because he is being promoted to a higher court.

The governor's announcement caps the most sweeping flurry of changes at the top levels of Maryland's judiciary in a quarter-century.

With last month's appointment of Anne Arundel Judge Martha F. Rasin to succeed the retiring Robert F. Sweeney as chief judge of the District Court system, the entire top echelon of the judiciary has changed in a matter of weeks.

The governor's long-awaited decision yesterday came after a fierce behind-the-scenes lobbying effort that involved legislators, judges, lawyers, local officials, clergy and community leaders.

A source close to the governor said Glendening's final choice came down to two highly qualified candidates — Bell and Wilner — each of whom offered political risks and advantages.

Glendening's choice of Bell could help shore up his support in the black community and lend stability to his often-shaky relations with Baltimore Mayor Kurt L. Schmoke and Prince George's County Executive Wayne K. Curry.

Both were strong backers of the Baltimore judge.

Schmoke did not attend yesterday's announcement, citing a prior commitment in Washington. But he issued a statement applauding Bell's appointment.

"It is an inspired choice of an outstanding man and legal scholar," the mayor said. "In selecting Judge Bell, Governor Glendening has done well for the court and all the citizens of Maryland."

cont.

cont.

"In my view, if anyone could bear the title of the Pride of Baltimore, it would be Judge Bell."

Curry, who did attend, called the decision "marvelous."

However, Bell's record of reluctance to uphold death sentences could come back to haunt the governor in his re-election effort despite his own support of capital punishment.

Ellen R. Sauerbrey, the likely Republican candidate for governor in 1998, called the appointment "troubling."

The rhetoric of her reaction could foreshadow campaign commercials Marylanders will view two years from now.

"He has the reputation of being a bleeding-heart liberal," Sauerbrey said. "He never runs out of reasons to oppose the death penalty."

"There have been many 6-1 decisions at the Court of Appeals upholding convictions, and Judge Bell is frequently the lone dissenter who votes to return violent criminals to their communities."

But Glendening said the appointment "was not about politics." He noted that Bell will continue to have just one vote on the seven-member court.

Bell indicated in response to reporters' questions that he will rethink some long-held positions, such as opposition to the abolition of judicial elections, in light of his new position as the leader of the state's judiciary.

"I'm not in business for myself."

"I'm in business for the whole judiciary," Bell said.

Many leaders of the legal profession considered Wilner, 59, the more qualified candidate, largely because of his widely acknowledged administrative skills.

That factor is important because the chief judge oversees the state's entire judicial branch — a \$175 million bureaucracy that includes more than 250 judges.

However, leaders of the legal profession said Bell's qualifications would have made him a top contender regardless of race.

"I certainly don't think any of us who are familiar with Judge Bell are going to see it as an affirmative action hire," said Donald G. Gifford, dean of the University of Maryland Law School.

After graduating from Harvard University Law School and joining the Baltimore firm of Piper & Marbury, Bell worked his way up through the judicial ranks from

District Court to Baltimore Circuit Court to the Court of Special Appeals. He was named to the Court of Appeals by Gov. William Donald Schaefer in 1991.

Certainly the black leaders who gathered for the announcement yesterday had no doubt that Glendening made the right choice.

Del. Howard P. Rawlings savored his second triumphant moment in two days. The day before, the Baltimore Democrat witnessed the unveiling of a Thurgood Marshall memorial across the street from the State House. The words inscribed on it — "Equal Justice Under Law" — were fresh in his mind.

"There's no better way to send that message of equal justice for all than the appointment of Judge Bell," Rawlings said.

Sun staff writer Eric Siegel contributed to this article.

cont.

seph F. Murphy Jr., as Judge Wilner's replacement as head of the Special Appeals panel.

Judge Wilner brings to the state's highest court a legal mind that matches his recognized skills as the administrator of a busy and complex intermediate appellate court. Chief Judge Joseph Murphy is an authority on legal rules of evidence. Since 1991, he has also chaired a committee to revise Maryland's criminal code.

It is an unusual set of circumstances that brings new leadership to three of the state's four courts within a month. Together with Chief Judge Martha F. Rasin, named last month to head Maryland's District Courts, Judges Bell and Joseph Murphy form the new leadership team for the state's judiciary. They each have big shoes to fill, but they appear equal to the challenges.

Under Maryland law, the governor's judicial appointments do not need legislative approval. They therefore constitute what may be his most lasting legacy in the affairs of this state.