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Project, which culminated in a complete revision of the Indiana Rules of Appellate Procedure, the first comprehensive review of the appellate rules in 30 years.

By designation of the Chief Justice of Indiana, Judge Najam has represented the Indiana judiciary on the Indiana Department of Homeland Security Counter-Terrorism and Security Council since it was created following the events of September 11, 2001. He also serves on the Court Security Committee of the Judicial Conference of Indiana. Judge Najam was an original member of the Indiana Supreme Court Judicial Technology and Automation Committee, which initiated the Odyssey electronic case and financial management system for Indiana courts.

While in practice he was a member of the Bloomington Rotary Club and the Greater Bloomington Chamber of Commerce. He has also served as a Director and President of the Monroe County YMCA and as a Director and Chair of the Community Foundation of Bloomington and Monroe County. He is currently a member of the Sycamore Land Trust Advisory Board.

Judge Najam is the author of "Public School Finance in Indiana: A Critique," published in the Indiana Law Journal, and "Caught in the Middle: The Role of State Intermediate Appellate Courts" and "Merit Selection in Indiana: The Foundation for a Fair and Impartial Appellate Judiciary," both of which were published in the Indiana Law Review. Judge Najam is a graduate of the Indiana Graduate Program for judges, a member of the American, Indiana, and Monroe County Bar Associations, and a Fellow of the American, Indiana, and Indianapolis Bar Foundations. He is a member of the Indiana University Maurer School of Law Board of Visitors, a member of Phi Delta Phi legal fraternity, and an Eagle Scout.

Judge Najam has authored over 3,500 majority opinions for the Court.

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Committee. She is currently on an Advisory Panel to the Specialization Committee. In 2005, she was named to the Indiana Pro Bono Commission and in July 2008, she was named as Chair of that Commission. While chair, she worked with the fourteen pro bono districts to train lawyers and mediators on how to assist homeowners facing foreclosure. In addition, she was a member of the Board of Directors of the Indiana Continuing Legal Education Forum from 1994-1999 and has been a co-chair of ICLEF's Indiana Trial Advocacy College from 2001 to present. Judge May also serves on the Civil Instruction Committee, an Indiana Judicial Conference Committee, which has been working to translate all of the civil jury instructions into "plain English." She frequently speaks on legal topics to attorneys, other judges, schools, and other professional and community organizations.

In 2003, Judge May was named to the American Bar Association's Standing Committee on Attorney Specialization. She is now special counsel to that committee. In the spring of 2004, Judge May became adjunct faculty at Robert H. McKinney School of Law, where she teaches a trial advocacy course. Also in the spring of 2004, she was awarded an Honorary Doctor of Civil Law from the University of Southern Indiana. In 2015, Judge May became a member of the American Board of Trial Advocates. Judge May was retained on the Court of Appeals in 2010, and lives in Morgan County.

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Judge Altice also served as chair of the Marion Superior Court Criminal Term from 2005-2007, as a member of the Executive Committee for the Marion Superior Court from 2007-2009, and as Presiding Judge of the Marion Superior Court from 2009 to 2011.

Judge Altice moved to the civil division of the Marion Superior Court in 2013 and was appointed chair of the Marion Superior Court Civil Term in January 2015.

Throughout his judicial career, Judge Altice has held leadership roles in organizations that improve the administration of justice. He accepted special assignments from the Indiana Supreme Court on the Judicial Performance Task Force and the Cameras in the Courtroom project, which allowed cameras in certain courtrooms under limited conditions. The Duval Work Release Center was built and opened during his tenure on the Marion County Community Corrections Advisory Board.

Judge Altice is a member of the Indiana Judges Association, the Indiana State Bar Association, and the Indianapolis Bar Association. In April 2015, Judge Altice was appointed to serve on an ad hoc Indiana Tax Court Advisory Task Force.

His community activities include prior service on the Board of Directors of these organizations: Indianapolis Police Athletic League; the Martin Luther King Community Development Corp.; and Coburn Place Safe Haven, a transitional housing facility for domestic abuse victims.

He has presented on legal and ethical issues for the Indiana Continuing Legal Education Forum, the Indiana Judicial Center, and various Indiana bar associations. In his spare time, he enjoys gardening, golf and reading.

He and his wife, Kris, who is also an attorney, have two adult children.

SYNOPSIS

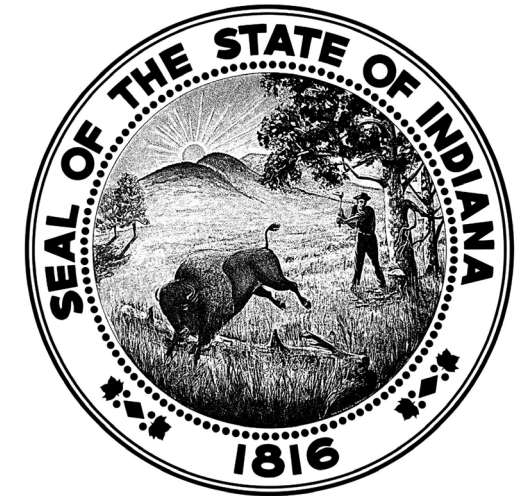
Carmen Harbaugh appeals her convictions of Level 4 felony dealing in cocaine, Level 4 felony dealing in methamphetamine, Level 6 felony possession of methamphetamine, Class B misdemeanor possession of marijuana, and Class C misdemeanor possession of paraphernalia. Harbaugh's convictions were based, in part, on evidence found inside closed containers inside Harbaugh's vehicle. Harbaugh argues the trial court abused its discretion when it admitted this evidence because the search violated her rights against unreasonable search and seizure under the Fourth Amendment of the United States Constitution and Article 1, Section 11 of the Indiana Constitution. She claims officers allowed a K9 officer to enter her vehicle without probable cause and in violation of the inventory search exception to the warrant requirement for a search.

The State argues Harbaugh has waived her arguments because she did not present them before the trial court. In the alternative, the State contends probable cause existed, and the K9 officer was a "tool" as described in department policy regarding inventory searches.

Court of Appeals of Indiana

Hearing oral argument at
Milan High School
Milan, IN

Monday, February 5 @ 12:30 p.m.



Carmen Nicolle Harbaugh

v.

State of Indiana

29A04-1706-CR-01228

*On appeal from the
Hamilton Superior #2 Court*

Attorneys For The Parties

Appellant Attorney

Russell Cate is a founding member of the Hamilton County based law firm Cate, Terry & Gookins LLC. His practice primarily focuses on criminal defense, personal injury, and civil litigation. Prior to starting Cate, Terry & Gookins LLC in 2015, Russell worked at the law firm of Stuart & Branigin, served as a deputy prosecuting attorney in Hamilton County, and was a partner at Campbell Kyle Proffitt, LLP. Russell is a member of the Indiana State Bar Association and former chair of the Attorney Fee Dispute Resolution Committee. He was a recipient of the Indiana State Bar Association's 2016 Presidential Citation Award and is an active member in his local community.

Born and raised in Indianapolis, Indiana, Russell attended Lawrence North High School before heading to Purdue University to obtain his degree in history. After college, Russell completed his law degree at Indiana University – McKinney School of Law in Indianapolis, Indiana and was admitted to the Indiana State Bar in 2007.

Russell currently lives in Noblesville, Indiana with his wife, three children and Labrador retriever. He enjoys spending time with his family, hunting, golfing, traveling, and grilling.

Appellee Attorney

Ian McLean is a native of Crawfordsville, Indiana. He is a graduate of Grinnell College and Indiana University's Maurer School of Law. Following law school, he clerked for the Hon. Clarkson S. Fisher, United States District Court for the District of New Jersey, and Hon. Pasco M. Bowman II, United States Court of Appeals for the Eighth Circuit. Mr. McLean has served as a deputy prosecutor for Union County and Montgomery County, Indiana. He was in private practice in Crawfordsville from 1995 until 2007 when he joined the Attorney General's office. Mr. McLean is the author of "Criminal Law and Natural Law" in *Common Truths: New Perspectives in Natural Law* (ISI Books, 2000) and "The Fuzzy Picture of Hitler's Pope," 32 *Political Science Re-viewer* (2003). He and his wife, Sharon, reside in Crawfordsville with their daughter.

About the Court of Appeals

As the second-highest court in Indiana, the Court of Appeals hears appeals from the state's trial courts and some state agencies. The Court does not preside over trials and must accept all appeals sent to it, with the exception of:

- Cases in which the death penalty or life-without-parole is rendered (appealed directly to the Indiana Supreme Court);
- Cases in which statutes are declared unconstitutional by a trial court (automatically appealed to the Supreme Court);
- Attorney disciplinary cases (which also go to the Supreme Court); and,
- Cases involving taxation (which go to the Indiana Tax Court).

As a result, the 15 members of the Court issue approximately 2,000 written opinions each year. A decision of the Court of Appeals of Indiana is final unless granted further review by the Indiana Supreme Court.

The Court hears cases only in three-judge panels. All panels have statewide jurisdiction and rotate three times per year. Cases are randomly assigned. In addition, there is no deadline for the Court to reach a decision in each case; however, the Court strives to issue decisions within four months of receiving an appeal. Opinions are often issued earlier.

What happens after oral argument?

After oral argument, the judges confer to decide the outcome. A designated writing judge drafts an opinion for the others' review. Final language may involve several drafts and significant collaboration. Generally, opinions affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action. Many opinions are unanimous, although non-unanimous decisions (2-1) are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case. Judges might also write separate, concurring opinions that emphasize different points of law or facts than the main opinion. No rules or laws govern how fast the court must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records. Once issued, all opinions are published on www.courts.in.gov and maintained in the permanent records of the Clerk of Appellate Courts. Parties can appeal decisions of the Court of Appeals to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason. If the petition is denied, the Appeals Court decision stands.

Today's Panel of Judges



The Honorable
Edward W.
Najam, Jr.

Monroe County

Edward W. Najam, Jr., of Bloomington, Monroe County, was appointed to the Court of Appeals by Governor Evan Bayh in 1992 and retained by the electorate in 1996, 2006, and 2016. Judge Najam graduated from Indiana University High School in Bloomington, where he grew up. He attended Indiana University-Bloomington, where he earned a B.A. in political science, with Highest Distinction, in 1969. Judge Najam earned his J.D. from Harvard Law School and was admitted to the Indiana Bar in 1972. While at I.U. he was elected to Phi Beta Kappa and was elected Student Body President. He was also the recipient of the Herman B Wells Senior Recognition Award for academic excellence and campus leadership, an award named for I.U.'s legendary President and University Chancellor. After his admission to the Bar, Judge Najam served as Administrative Assistant to the Mayor of Bloomington for two years and was a practicing attorney with a general civil and trial practice for eighteen years before joining the Court.

The Indiana Supreme Court appointed Judge Najam to the Supreme Court Committee on Rules of Practice and Procedure, which conducts a continuous study of the Indiana Rules of Procedure and the Indiana Rules of Evidence. He served on this committee for 10 years. As Chair of the Appellate Practice Section of the Indiana State Bar Association, Judge Najam initiated the Appellate Rules

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The Honorable
Melissa S. May

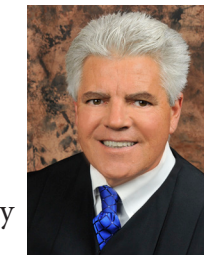
Vanderburgh County

Melissa S. May was appointed to the Indiana Court of Appeals by Governor Frank O'Bannon in April of 1998. She was born in Elkhart, Indiana. She received a B.S. in criminal justice from Indiana University-South Bend and, in 1984, a J.D. from Indiana University School of Law-Indianapolis. She is also a graduate of the Graduate Program for Indiana Judges.

Prior to her appointment to the Court, Judge May practiced law for fourteen years in Evansville, Indiana, where she focused on insurance defense and personal injury litigation.

Judge May has been active in local, state, and national bar associations and bar foundations. She served the Indiana Bar Association on the Board of Managers from 1992-1994, as Chair of the Litigation Section from 1998-1999, as Counsel to the President from 2000-2001, as Chair of the Appellate Practice Section from 2008-2009, and as Secretary to the Board of Governors in 2008-2009. She is also a member of the Indianapolis Bar Association and the Evansville Bar Association. She is a fellow of the Indiana Bar Foundation and is currently serving on their Board of Directors. Judge May is a fellow for the American Bar Association, and a Master Fellow of the Indianapolis Bar Association. From 1999 until December 2004, Judge May was a member of Indiana's Continuing Legal Education Commission, where she chaired the Specialization

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The Honorable
Robert R. Altice

Marion County

Robert R. Altice, Jr., was appointed to the Court of Appeals by Gov. Mike Pence and began his service on Sept. 2, 2015.

Judge Altice earned his undergraduate degree from Miami University, Oxford, OH, a master's degree in criminal justice administration from the University of Central Missouri, and his law degree from the University of Missouri-Kansas City School of Law.

Judge Altice began his career handling felony cases as a deputy prosecutor in Jackson County, MO, before being promoted to Chief Deputy Prosecutor for the Drug Unit. He then practiced with a Kansas City civil law firm, focusing on medical malpractice defense. After moving to Indianapolis, he concentrated on insurance defense in private practice.

Judge Altice returned to prosecution in 1994, handling a major felony caseload as a deputy prosecutor for the Marion County Prosecutor's Office. He served as Chief of the Felony Division from 1997-2000, trying more than 100 major felony jury trials, including 25 murder cases. While serving briefly as the Office's Chief Counsel, he helped amend Indiana laws on domestic battery and possession of firearms by violent felons.

Judge Altice was elected to the Marion County bench in 2000. As judge of Marion Superior Court, Criminal Division 2 from 2001-2012, he presided at 250 major felony jury trials, including 75 murder trials (seven death penalty cases).

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