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Wednesday, July 05, 2006

Ky News: "The Passing of Ross Harris" and the rest of the story

Here is a posting to remind you/us that there is usually more to the story than you read in the papers and the blogs. The people about whom we write and comment have lives beyond the news media with families, friends, finances, and details that make them more than the one-dimensional character in the print.

Well, we all know of the Ross Harris story with the criminal conviction, the allegations of strawman contributions to Judge Debra Lambert's judicial campaign, the failure of the Chief Justice Lambert to recuse himself from a Ross Harris appeal after the strawman contributions to his wife's campaign, the judicial ethics complaint against Chief Justice Lambert over the decision not to be recused and hearing the case involving Harris, the ultimate dismissal of the judicial complaint by the Judicial Conduct Commission, and then the allegation by the complainant that the Judicial Conduct Commission did not properly perform its role.

Well, Ross Harris is not the proverbial bad guy, and in his part of the state he has done some good in the eyes of those who know him. For example, I did not know Mr. Harris was an attorney and formerly practiced law for a while with Gary Johnson from Pikeville, Ky.

This comes to mind in a posting out of Morehead at CyberHillBilly Blog. Click on heading for entire posting.

[The Passing of Ross Harris](#)

The Herald Leader had a sad [story](#) last week about the death of Ross Harris.

Harris was convicted last year of violating federal election and campaign finance laws. He was spared prison because he was terminally ill by the time of sentencing.

Pike County businesswoman and former RNC National Committeewoman Velma Childers, always a lady, said of Harris: "He was a good man." "Most people did not know the Ross Harris I knew. He was generous and kind."

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NEXT POST

Federal: "How does the health insurer for federal employees get its money back" [SW Va. Blog] From the [SW Virginia Blog](#) is a post on the [feds collecting the medical payments: How does the health insurer for federal employees get its money back](#) A while back, we had a case where a fellow who worked at the federal prison in Lee County was injured in an accident, and we filed an uninsured motorist claim in state court in Tennessee. One issue we had to unravel was the extent to which the fellow's health insurer had the right to get back what it had paid out for his injuries. From what little I had gained on this issue, I would have bet money that the Supreme Court's decision in [Empire Healthchoice Assurance, Inc. v. McVeigh](#) would have come out the other way. In the Empire case, the Court in a 5-4 decision concluded that the Blue Cross outfit charged with administering some of the federal employee health benefits could not sue in federal court to recover from the proceeds of a wrongful death case what it paid out in medical benefits for the decedent. But for federal law, the carrier would not even have such a claim, in some states. See, e.g., Va. Code §.38.2-3405. I suppose that in such a case in Virginia, as in the Kircher case noted below, the Supreme Court is counting on the state court judges to apply federal law.

PREVIOUS POST

Federal: ERISA has no post-Sereboff Constructive Trust on SS Benefits From the Erisa and Disability law blog. Good read, good post for you personal injury lawyers trying to make your client's whole and protect their recoveries: Post-Sereboff, Court Refuses to Impose Constructive Trust Brenda Mote filed suit under ERISA seeking disability benefits. The defendant counter-claimed to recover an alleged overpayment resulting from Mote's receipt of Social Security disability benefits. Mote, represented by Mark DeBofsky, moved to dismiss the counter-claim, arguing that the Social Security funds held in a bank account are shielded from recovery under 42 U.S.C. § 407(a), which reads: The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. The Court agreed with Mote and dismissed the counter-claim, holding that "the funds on which defendants seek to impose an equitable lien are exactly the same funds that the law labels and treats as Social Security funds that are taken out of reach by Section 407(a). In sum, then, Mote's motion to dismiss the FACc must be and is granted." The cite is Mote v. Aetna Life Ins. Co., 2006 WL 1744791 (N.D. Ill., June 26, 2006).

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