

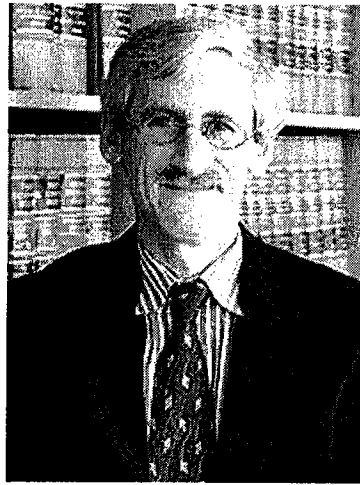
The Art of Appellate Advocacy - Desirable and in the public interest

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Several weeks ago, as I was sitting in a field behind Hopkinton High School with slightly more than 18,000 other questionably sane individuals waiting for the Boston Marathon to begin, I was suddenly struck by a distinct similarity between being a part of this running event and participating in a case on the merits before the Maryland Court of Appeals. And no, I don't mean that you have to be a masochist to engage in either of these activities, although that certainly would be a feature that they share. No, the similarity I'm talking about is that getting to do either is an action that should never be taken for granted.

For those who are unfamiliar with the Boston Marathon, it is the only marathon in the country in which runners must meet a qualifying cut-off time that corresponds to their age and gender in order to participate in the race. I was able to qualify for this year's race as a result of moving into a new age bracket, perhaps the only part of getting old that I've welcomed so far at this point in my life, with the possible exception of becoming old enough to drive and drink, respectively but not simultaneously.



Andrew Baida

Qualifying is only part of the battle, however, and just one of the obstacles to overcome to get to the finish line on Boylston Street. The debilitating heat, calf muscle spasms and stomach cramps of prior years took a back seat to this year's challenge, which came in the form of a limp-inducing foot injury I sustained just weeks before the marathon that put in doubt my ability even to get to the starting line. Hurdles like these are the reason why I never treat this marathon as a given or assume, when the race is over, that I will be back to run in it again.

The barriers that block the way to getting a case reviewed by the Court of Appeals may not be as physically challenging as those that line the road to Boston, but they present just as much reason for why no one should be cavalier about the certiorari process. The court granted only 14 percent of the cert petitions it considered in Fiscal Year 2004, 15 percent in 2003 and 17 percent in the year before that. The odds of getting cert were even lower in criminal cases: the Court of Appeals agreed to review a mere 12.8 percent of these cases in 2004, 10.5 percent in 2003 and 11.3 percent in 2002.

