

## **Members of the Judicial Proceedings Committee:**

My name is Michael Abrams; I am a civil rights attorney based in Baltimore with Brown, Goldstein & Levy LLP.<sup>1</sup> For the following reasons, I urge you to vote in favor of SB50 to expand appeal rights in cases arising from the Maryland Commission on Civil Rights.

The Commission has a remarkable history. Its first incarnation was as the “Interracial Commission,” formed by this Legislature in 1927, composed of 9 Black members and 9 white members, dedicated to studying the “welfare of colored people residing in the State,” and to “recommend legislation and sponsor movements looking to the welfare of said people.” Over subsequent decades, the Commission would be renamed to the “Commission to Study Problems Affecting the Colored Population,” then the “Commission on Interracial Problems and Relations.”<sup>2</sup>

Meanwhile, in 1960, Robert Bell—a Black high school student and the future Chief Justice of Maryland—sat down in the segregated Hooper’s Restaurant in Baltimore and waited to be served. He was convicted on trespassing charges and his appeal went to the U.S. Supreme Court. He eventually prevailed on appeal because, in 1964, Maryland passed a law forbidding businesses from refusing to serve a member of the public based on their race. Maryland’s law made it a leader nationwide, predating the federal Civil Rights Act. At the time, the New York Times called the law’s passage a “stunning victory,” writing that the General Assembly “overrode strong rural segregationist sentiment” to “pass the first statewide public accommodations law in a Southern state.”<sup>3</sup>

A few years later, in 1969, this Legislature reformed the Commission into the “Commission on Human Relations,” a true administrative agency for the first time, with a budget for paid staff and authority to enforce this public accommodations law by investigating complaints of discrimination. Over time, Maryland continued to be a leader on civil rights protections, with the Commission’s purview growing to include fair housing laws, disability protections, and employment rules. Maryland persisted in leading the way when, in 1999, Governor Glendening advocated for protection based on sexual orientation, which was codified in 2001. Ten years later, the Commission was renamed to its modern form, as the Maryland Commission on Civil Rights.

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<sup>1</sup> This testimony reflects my personal opinion based on my professional experience, not the opinion of my employer.

<sup>2</sup> See generally Md. Comm’n Civ. Rts., *About MCCR*, <https://mccr.maryland.gov/Pages/About-MCCR.aspx>.

<sup>3</sup> Ben A. Franklin, *Bias in Public Accommodations Banned Statewide in Maryland* (N.Y. Times Mar. 15, 1964), <https://www.nytimes.com/1964/03/15/archives/bias-in-public-accommodations-banned-statewide-by-maryland-local.html>.

As this history reflects, the Commission is a vital state agency. If a Marylander suffers discrimination in a public accommodation and bravely decides to pursue justice, the law requires them to first seek relief through the Commission. The Commission is responsible for investigating and resolving such civil rights complaints in the first instance. The claimants often proceed *pro se*, meaning they represent themselves, without legal counsel, so the Commission's discretion over these cases is especially consequential.

Inevitably, the Commission will sometimes reach erroneous conclusions. The agency is understaffed and underfunded. The single investigator assigned to a complaint, who is likely to be spread far too thin, has complete discretion to issue a "no probable cause" determination, terminating a complaint. Appeal rights are the essential check against mistaken outcomes.

Appeals help to ensure that the complainant receives justice on both the substance of their complaint *and* the process provided by the Commission. For example, in Jennifer Rowe's testimony, she describes issues with the process she received in the Commission, which were not addressed by the short Circuit Court decision affirming the substance of the Commission's decision. Full appeal rights would make it much more likely that such issues are considered, resulting in clearer standards to guide the Commission's investigations and providing more effective oversight of the Commission's conduct.

While judicial review in the Circuit Court provides *some* oversight already, civil rights are too important for review to end there. Just like every state agency covered by Maryland's Administrative Procedure Act, the Commission's decisions should be subject to full appellate review in the Appellate Court and Supreme Court. The decisions of those courts are often published to serve as precedent in future cases. Full appeal rights from the Commission would not only help ensure fairer outcomes for victims of discrimination, but also would contribute to the development of civil rights law across Maryland.

As one small step to continue Maryland's legacy as a leader on these critical civil rights protections, the Committee should vote in favor of SB50.