

Removal and Censure Actions Against N.C. Judges by the State Supreme Court Since 1975

Judges Removed from the Bench

1. District Court **Judge Linwood Peoples** of Henderson resigned his seat in 1977 after he was accused by the Judicial Standards Commission of accepting money from defendants to settle traffic cases out of court. The Commission recommended to the Supreme Court that Peoples be removed from office. In 1978, Peoples ran for Superior Court and won a seat, but the Supreme Court refused to seat him, ruling that his misconduct in office made him ineligible to retain his seat.
2. District Court **Judge William Martin** of Hickory was removed from the bench by the Supreme Court in 1981 after the Judicial Standards Commission accused him of trying "to obtain sexual favors from female defendants who had matters pending before the courts." The Commission earlier had recommended in 1978 that Martin be removed from office, but the Supreme Court reduced that recommendation to a public censure of Judge Martin.
3. Superior Court **Judge Charles Kivett** of Greensboro was accused by N.C. Department of Justice prosecutors in 1982 of sexual misconduct in office and of giving light sentences to certain defendants at the request of a friend. The Judicial Standards Commission recommended that Kivett be removed, and the Supreme Court removed him from office in 1983.
4. District Court **Judge Wilton Hunt** of Whiteville was accused by the Judicial Standards Commission of accepting bribes in an undercover operation conducted by law enforcement authorities. The Supreme Court removed Hunt from the bench in 1983.
5. Superior Court **Judge Terry Sherrill** of Charlotte was removed from the bench by the Supreme Court in 1991 for conduct that constituted willful misconduct in office and conduct prejudicial to the administration of justice that brings the judicial office into disrepute. In 1990, Sherrill had been placed in the Deferred Prosecution Program for offenses arising out of his arrest on March 10, 1990 for misdemeanor possession of marijuana and drug paraphernalia and felony possession of cocaine. —continues

appointed and 26 were elected. And, of the 54 judges who are Republicans, 13 were appointed and 41 were elected. Thus, only in theory has North Carolina had a partisan system of judicial selection and retention. In fact, because of the Governor's appointment power, the system has worked quite differently. "As a result, for many years in North Carolina a system supposedly giving voters complete control over judicial selection has given them almost no control,"⁸ notes John Korzen in the *Wake Forest Law Review*.

In addition to the Governor's de facto control over the seating of judges, proponents of merit selection could cite a rise in judicial misconduct. North Carolina's judges occasionally run afoul of the law themselves, and some have been defrocked or censured by the state Supreme Court, which has final authority in disciplinary actions. The N.C. Judicial Standards Commission was created in 1973 to make recommendations to the N.C. Supreme Court in cases of misconduct in office. From 1975 to —continues on page 86

Judges Censured

1. District Court **Judge E.E. Crutchfield** of Albemarle, 1975, for *ex parte*¹ disposition of several court cases.
2. District Court **Judge Joseph P. Edens** of Hickory, 1976, for *ex parte* disposition of a case.
3. District Court **Judge George Stuhl** of Fayetteville, 1977, for *ex parte* disposition of cases, making overtures to an arresting officer about his testimony, and improperly urging an assistant district attorney to take a dismissal in a case.
4. District Court **Judge Milton Nowell** of Goldsboro, 1977, for *ex parte* disposition of a case.
5. District Court **Judge Herbert Hardy** of Goldsboro, 1978, for *ex parte* disposition of cases and for writing another judge urging him to enter a certain sentence in a pending court case.
6. Superior Court **Judge Paul Wright** of Goldsboro, 1985, for making a campaign contribution to a candidate in another race, contrary to a judicial canon proscribing such political activity.
7. Superior Court **Judge Kenneth Griffin** of Charlotte, 1987, for making an inappropriate courtroom comment and for making a derogatory gesture in court.
8. District Court **Judge Lacy Hair** of Fayetteville, 1989, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute.
9. District Court **Judge George Greene** of Raleigh, 1991, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. While presiding over a prosecution for assault on a female, the judge told the victim she would ruin her children's lives if she did not reconcile with the defendant. He referred to a battered women's assistance group as a one-sided, man-hating bunch of females and pack of she-dogs. He also polled the courtroom spectators to see how many of them had minor spats during their marriages. While presiding over speeding trials, the judge routinely admitted that he drove 52 m.p.h. in 45 m.p.h. zones and 65 m.p.h. in 55 m.p.h. zones. He counseled defendants to restrict their speeding violations to those limits to avoid apprehension and conviction.
10. District Court **Judge Stafford Bullock** of Raleigh, 1991, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge ordered the detention of an attorney who declined to give a reason for his motion to withdraw as counsel in a criminal case, and the judge informed the attorney in open court that in the future, he would not accept recommendations from him, would not grant him continuances, would not appoint him to represent indigent defendants, and would require his clients to plead guilty or not guilty as charged.
11. District Court **Judge Allen Harrell** of Wilson, 1992, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge involved himself in a criminal child abuse case in the district in which he was sitting.
12. District Court **Judge James E. Martin** of Greenville, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge convicted defendants for reckless driving when they were charged with impaired driving, an action he knew was improper and *ultra vires*.²

13. District Court **Judge Marilyn Bissell** of Charlotte, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge barred an attorney, who had initiated a preliminary investigation of the judge with the Judicial Standards Commission, from a session of juvenile court over which she was presiding. The proper course of action was for the judge to recuse³ herself.
14. District Court **Judge John S. Hair Jr.** of Fayetteville, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge made comments which could reasonably be interpreted as threats of professional reprisal against members of the district attorney's office and attorneys practicing in district court for what the judge perceived to be disloyalty and a betrayal of him in his divorce case.
15. Superior Court **Judge Preston Cornelius** of Mooresville, 1993, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge gave legal advice to an individual with regard to her discharge from employment with Iredell County Department of Social Services and he undertook in his official capacity to intervene on her behalf.
16. District Court **Judge Jerry Leonard** of Raleigh, 1995, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge was censured for (1) his behavior while publicly intoxicated in Key West, Fla., which resulted in his arrest and a negotiated plea of *nolo contendere* to the criminal offense of trespass after warning; (2) his behavior while publicly intoxicated in Raleigh, N.C., which resulted in his conviction of the criminal offense of indecent exposure; and (3) his refusal to abstain from the consumption of alcohol.
17. District Court **Judge James E. Martin** of Greenville, 1995, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The judge initiated a series of *ex parte* communications with law enforcement and court personnel concerning the son of a friend who had been arrested for felonious breaking and entering. The judge also initiated *ex parte* communications with a law officer concerning an automobile accident that resulted in charges being filed against the driver of a car in which the daughter of a friend was a passenger. He told the officer his opinion was that the matter was civil, not criminal, and that if the case came before him in court, he would so declare it, and he suggested to the officer that he reconsider his assessment of fault. Previously censured in 1993.
18. Superior Court **Judge George Greene** of Raleigh, 1995, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute for comments made during the trial of two separate cases over which he presided. Previously censured in 1991.
19. District Court **Judge James Ammons Jr.** of Fayetteville, 1996, for conduct prejudicial to the administration of justice that brings the judicial office into disrepute based on his actions in a worthless check case in which the prosecuting witness was a personal friend of his. Also for issuing an *ex parte* arrest order in a separate custody dispute.

—Mebane Rash Whitman

FOOTNOTES

¹ *Ex parte* means on behalf of one party in a lawsuit.

² *Ultra vires* means beyond or exceeding the legal authority.

³ Recuse means a judge disqualifies himself or herself from hearing a lawsuit because of self-interest, bias, or prejudice.