

The Carolina Indian Voice

Robeson County, N.C.

"Building Communicative Bridges In A Tri-Racial Setting"

Robeson County

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LOCAL ATTORNEY GRANTED "ATTORNEYS OF HIS CHOICE"

by CONNIE BRAYBOY

Lumberton attorney Horace Locklear spent Thursday, December 14, in court. This time attorney Locklear was there as a defendant. Judge Craig Ellis presided in Scotland County Superior Court, his home county.

The original intent of the hearing was for Judge Ellis to render a decision on whether the law firm of Bodenheimer, Bowen and Byerly could represent attorney Locklear. Scheduled to begin at 10 a.m., the session seemed to be delayed, pending the arrival of Martin McCall, administrative assistant to District Attorney Richard Townsend. After McCall's arrival, it was necessary to await the arrival of attorney Carl Barrington of Fayetteville who arrived to defend Locklear on the criminal charges.

The state bar had already agreed that Bodenheimer, Bowen and Byerly could represent Locklear. The law firm had scheduled depositions with the consent of the bar association, and the attorney general's office had objected.

Only three witnesses were called during the day long session. Wilkins, who was questioned for the defense by Bowen; Byerly who was also questioned by Bowen; and Bowen himself who was questioned for the defense by Bodenheimer.

Prosecutor Linda Morris of the North Carolina State Attorney General's Office attempted to have Locklear's attorneys, Woodberry Bowen, Charlie Bodenheimer and Christopher Byerly of Lumberton, disqualified. She introduced a "surprise" witness, Burnis Wilkins, narcotics officer with the Robeson County Sheriff's Department. Wilkins testified that Bowen had discussed Locklear's case with him while Wilkins was the investigating officer and Bowen was assistant district attorney. Ms. Morris contended that the alleged conversation breached confidentiality and that Bowen had information pertinent to the case which could only be obtained by member of the district attorney's office.

Wilkins testified that he received a call "last week from Martin McCall asking me did I remember telling him and Richard Townsend about a conversation with Mr. Bowen." He further stated that during the conversation he and Bowen discussed the wiring of Leroy Locklear, convicted of growing \$1 million worth of marijuana, for the purpose of recording conversations between Leroy Locklear and attorney Horace Locklear.

In rebuttal, Bowen asked Wilkins was the alleged conversation held in a public place where anyone, including the defendant, could hear it. Wilkins stated that it was. He also stated that Mike Stogner, former Robeson County deputy, was present during the conversation.

Attorney Locklear, the first Indian to be admitted to the North Carolina Bar, is charged with obstructing justice, obtaining property by false pretense and attempting to obtain property by false pretense. He was indicted after several conversations with Leroy Locklear who was charged at that time with major drug trafficking offenses. It is alleged that Attorney Locklear received \$1500 to represent Leroy Locklear, although Locklear had already paid Lumberton attorney John Wishart Campbell in excess of \$20,000 to represent him on his drug dealing charges. It is alleged that attorney Locklear obstructed justice by saying he had the "judge under control" in reference to Judge Robert Hobgood who was to hear Leroy Locklear's case. Locklear pled guilty to growing \$1 million worth of marijuana more than a year ago. Sentencing was delayed until Locklear "gathered his crop." To date, he has still not been sentenced.

Wilkins testified that as soon as he heard that Bowen was involved in the case, he recalled their "back hall" conversation and immediately reported it to Martin McCall and Richard Townsend.

Wilkins admitted that Leroy Locklear was "wired" with a recorder in an attempt to catch attorney Locklear in some wrong doing. He admitted that the only evidence the state had against attorney Locklear was the transcript of the alleged "tape" and Leroy Locklear's testimony. Bowen took the stand and could not recall a conversation with Wilkins relative to Horace Locklear's case. He did recall talking with Wilkins about Horace

Oxendine who was arrested for drug dealing. He recalled discussing various items that were found in Oxendine's possession, including radios and guns from the Robeson County Sheriff's Department. Supposedly items that were received from Randy Jacobs, former Robeson County deputy. Bowen also recalled Wilkins joking and telling him how "unreliable" Mike Stogner was in his accounts of details involved in arrests. Bowen's contention was that Wilkins had confused the two men.

Ms. Morris asked Bowen if he would be able to recall the conversation if Stogner were called to testify. Bowen replied in the negative.

Christopher Byerly testified that he had talked with the Bar Association relative to a "conflict of interest" with their law firm representing Horace Locklear. The question had previously been sent to the Bar Association for a decision by Judge Craig Ellis. At an earlier hearing Ellis had questioned whether it was ethical for Byerly and Bowen to represent Locklear because both were former assistant district attorneys. Byerly, in fact, signed the indictment against Locklear.

Prior to Judge Ellis' decision, several points were entered into the record. Among them were the following: Martin McCall, among others, had been subpoenaed for depositions in the Horace Locklear case. McCall, carried his subpoena to Judge Ellis' chambers.

Martin McCall, apparently, makes the major decisions in the district attorney's office.

McCall supported Richard Townsend for the appointment as district attorney while Bowen supported Byerly.

Byerly testified that McCall didn't like him and that the indictment against Horace Locklear was prepared on Sunday afternoon without the knowledge of the former assistant district attorneys. The indictment was not the standard form for the district attorney's office. When Byerly came to work on Monday morning, he was instructed to appear in McCall's office. At that time, McCall told him to sign the indictment. When asked who drew up the indictment, McCall told that the attorney general's office did it.

While Judge Ellis stated on two separate occasions that every defendant has a constitutional right to the attorney of his choice, Eddie Hatcher was denied that right by Judge Robert Farmer.

The Bar Association encourages pro bono assistance from attorneys, but an attorney was sentenced to ten days in the Robeson County jail for offering to assist a defendant.

Martin McCall, while not licensed by the state of North Carolina to practice law, appears to dictate, manipulate and control the courts in Robeson County.

Leroy Locklear awaits sentencing until "his crop is gathered," although he has said he is guilty of growing \$1 million worth of marijuana. He pleaded guilty in June, 1988.

When Richard Townsend was asked why Leroy Locklear had not been sentenced, he stated, "We can't deal with that until we finish with Mr. Locklear's case." Bowen contends, however, that the judicial system in Robeson County, spearheaded by Martin McCall, intends to "destroy this man's (Horace Locklear) reputation, and livelihood" and then put Leroy Locklear on the back and thank him for "substantial cooperation." Bowen entered into the record on three occasions that a convicted drug dealer remains free on the streets of Robeson County while the judicial system "plays games" with Horace Locklear's life.

While the district attorney's office states that they are opposed to plea bargaining, the indictments against Leroy Locklear's son and son-in-law were dismissed (the indictment) reads "as part of a plea arrangement."

Bowen stated that the Robeson County judicial system was indeed on trial in the Locklear case. No date has yet been set for this case.

Judge Ellis ruled that there was no evidence shown that indicated a breach in confidentiality and Bodenheimer, Bowen and Byerly are the attorneys of record for Horace Locklear.

Also subpoenaed for depositions in the Horace Locklear case are Richard Townsend, Sheriff Hubert Stone, and Joe Freeman Britt, superior court judge.

Eduard Clark, file numbers 88 CrS 17858 et. seq. in the Office of the Clerk of the Robeson County Superior Court.

3. That on January 1, 1989 the undersigned took the oath of office as Resident Superior Court Judge of Judicial District 16B, comprised solely of Robeson County, after being appointed by the Honorable James G. Martin, Governor of the State of North Carolina. That prior to this appointment the undersigned was an attorney whose practice was limited to civil matters.

4. That on January 26, 1989 the Honorable Anthony M. Brannon, then duly assigned to preside over the superior courts of this district, appointed Angus B. Thompson, II, Public Defender, to represent Petitioner in these criminal charges.

5. That the week of March 27, 1989 the undersigned was duly assigned by the Administrative Office of the Courts to preside over the criminal superior court of this district. That during said week the undersigned talked in chambers with J. Richard Townsend, District Attorney, concerning the extradition of Petitioner who left the state without permission after being released on bail pending trial on these criminal charges.

Hopefully, all of us could see ourselves to a certain degree in our essay last week, *The Warning Signs of Missionary Mentality*. Certainly, we are all capable of false pride and vanity to the extent that we are not able to see our shortcomings as others are able to see them. Perhaps it is because we are too busy removing the splinter from our neighbor's eye while ignoring the log in our own eye.

Unfortunately, we all have tendencies to ignore others' criticism until the criticism escalates to the point of open anger born from frustration. All of us also seemingly have inclinations to discount and discredit other people's criticism of our actions. Some of us will even go to great pains to invent conspiracies to explain why others are criticizing us. How much simpler it would be if we learned to confess our faults to one another openly, honestly and compassionately.

To that end we offer the following prayer for Christmas:

Oh Great Spirit, master of all, let us learn to see ourselves as you and others see us. Let us be willing to learn from all of our sisters and brothers, regardless of their age, color or social position. Give us the patience and courage to hear things about ourselves that we might not like to hear, and give us the wisdom and strength to change those things about ourselves that need changing.

Oh Great Mind of the Universe, allow us to always work on perfecting ourselves before we take on the task of addressing others' shortcomings. And grant us the humility and wisdom to realize that we all fall far short of perfection and share with us your compassion for our

imperfections so that we might reflect the same when we have to criticize the actions of others.

And grant us love, Lord of all life, to have for the sinner while we might have total disgust for his sins. Let us learn to have sympathy for the insecurities and weaknesses of ourselves and others which might lead to erroneous actions while not allowing us to fall into the trap of pity whereby we hold neither ourselves nor others accountable.

Let us realize that when others criticize us that they are not always persecuting and prosecuting us but, instead, let us respect their desire for truth and justice, and their courage, integrity and compassion to share with us their criticism. In the same light, Lord, let us not be so vain as to think every generality is solely intended to single us out. No, do not let us have such an inflated opinion of our importance.

Instead, let us realize that our only importance comes from doing what you ask of us: to show our gratitude to you and all you have given us in this magnificent creation by respecting and loving others as we would ourselves.

Because when we are truly able to respect and love others as we would ourselves then we will be able to fully profit from their experiences, insights and criticisms. And when we are all able to fully benefit from each other we shall be living joyfully, harmoniously and peacefully as you ask of us.

For these things, we pray. Amen.
Merry Christmas and God's peace to you all.

THE OPTIMISTIC CYNICS

BY KAREN CORONADO & WM. RICHARD MATHIS

A Christmas Prayer

Christmas Blessings

THE CAROLINA INDIAN VOICE, INC.
P.O. Box 1075
Pembroke, N.C. 28372
Phone (919)521-2826

May this Holy time bring to all hearts His clear message of Christmas love.



6. That the undersigned recused himself in the extradition proceeding which was surely to be contested for the reasons that follow. That the undersigned had personal and a religious relations with the family of Timothy Jacobs, a co-defendant of Petitioner in these criminal charges, who was then fighting extradition proceedings in the State of New York. That the parents of said co-defendant and the undersigned are members of the same church. That the father of said co-defendant and the undersigned are members of the same Sunday school class. That on several occasions at church prior to said judicial appointment said father talked to the undersigned concerning said incident and its aftermath. That these conversations were not for the purpose of giving or receiving legal advice, as the practice of the undersigned was limited to civil matters, but rather as one Christian to a fellow Christian. That said father on several occasions asked for and received prayer from the class on behalf of said son. That the mother of said co-defendant in the church assembly spoke at length about said incident and its aftermath on several occasions asking for and receiving church prayer on behalf of said son.

7. That under the circumstances the undersigned verily felt that such recusal was in the best interests of the administration of justice. That the undersigned did not "refuse" to sign any extradition papers; in fact no such papers were even presented for the consideration of the undersigned. That such recusal prevented the undersigned from even considering the merits or sufficiency of any such request for extradition.

8. That on July 7, 1989 the undersigned talked in chambers with the Public Defender concerning a written request to allow William M. Kunster and Ronald L. Kuby of the New York bar to appear pro bono as lead counsel in these criminal actions with the Public Defender as the required local counsel. That a copy of the motion and order were filed and duly served upon the District Attorney that same date.

9. That the undersigned signed said order for the reasons that follow. That on May 4, 1989 Timothy Jacobs pled guilty to similar charges thereby removing the reason for the undersigned's earlier recusal as the

undersigned has never had any association whatsoever with Petitioner or his family. That on December 7, 1988 the Honorable Robert Hobgood upon a written motion allowed a member this same New York firm to make an appearance on behalf of Petitioner with an attorney licensed in this state at a hearing wherein the bond of Petitioner was reduced from \$100,000.00 to \$25,000.00. That this same New York firm represented Petitioner in the federal criminal charges arising out of said incident. That it was the understanding of the undersigned that the motion for such representation was not opposed by the District Attorney. That in this regard it noted that the District Attorney has never opposed said July 7, 1989 order nor sought to have the same set aside. That the motion did not relate to the guilt or innocence of Petitioner and, therefore, was not adversarial in nature. That the motion dealt only with the administrative or procedural matter of allowing an out-of-state attorney to appear in an action in this state.

10. That on September 4, 1989, the Honorable Robert L. Farmer entered an order not permitting said New York

attorneys to represent Petitioner in these criminal charges. That on October 16, 1989 said Judge entered an order not permitting said attorneys to represent Petitioner with the Public Defender as the required local counsel. That these orders are now the subject of an appeal by said attorneys.

11. That since the entry of the above orders the representation of Petitioner has been the subject of considerable press coverage and much public discussion. That at least one person has questioned the objectivity of the undersigned while several others have stated that the undersigned should defend his earlier order. That the undersigned has declined comment on the matter as required by the Code of Judicial Conduct.

12. That a judicial official cannot act as an advocate for either party in any proceeding. That the undersigned has not counseled or "encouraged" the Public Defender nor the District Attorney to take, or not to take, any action with regard to Petition. That the undersigned has no supervisory authority over the Public Defender nor the District Attorney.

13. That the undersigned is required by applicable statute to appoint the Public Defender from the nominees approved and submitted by the Robeson County Bar. That the undersigned has no authority to suggest or compel the bar to so approve or submit any individual for such consideration.

14. That it would be unethical and illegal for the undersigned to instruct or "warn" the Public Defender about the manner in which that agency chooses to represent its clients. That any attorney must exercise independent professional judgment on behalf of his client as required by the Rules of Professional Conduct.

15. That with regard to the earlier order of the undersigned it is noted that private attorneys have assisted the public defender in the representation of indigent criminal defendants in another district and have so assisted the appellate public defender. That such a practice is salutatory in that the burden on the taxpayers is lessened while improving the quality of legal services available to the poor. That private attorneys have long assisted district attorneys in the prosecution of criminal charges throughout the state.

16. That the issue of who may represent Petitioner is now before the proper forum which is the appellate court.

17. That under the circumstances the undersigned verily believes that the administration of justice would best be served by recusal from any further proceedings--contested or uncontested, adversarial or administrative--involving these criminal charges.

IT IS NOW, THEREFORE, ORDERED:

A. That the undersigned does hereby recuse himself from any matters involving these criminal charges.

B. That the instant Petition is hereby transferred for consideration by any judge duly assigned to preside over the criminal superior courts of this district.

C. That a copy hereof be placed in each of the afore cited files of Petitioner.

D. That a copy hereof be forwarded to Petitioner, the Public Defender, and the District Attorney.

ENTERED in chambers on this the 15th day of December, 1989.

THE HONORABLE DEXTER BROOKS
RESIDENT SUPERIOR COURT JUDGE

Judge Dexter Brooks Recuses Himself From Criminal Proceedings In Hatcher Trial

Resident Superior Court Judge Dexter Brooks entered the following order in Superior Court on Friday, December 15, 1989:

State of North Carolina
County of Robeson
EDDIE HATCHER...Petitioner

-vs-

NORTH CAROLINA DEPARTMENT OF CORRECTIONS
THE HONORABLE AARON J. JOHNSON, Secretary,
Respondent

This cause, coming on to be heard and being heard before the undersigned upon the Petition of Eddie Hatcher. Upon the hearing hereof, the undersigned makes the following findings and conclusions:

1. That Petitioner was indicted on December 6, 1988 on multiple felony criminal charges arising out of an incident on or about February 1, 1988 at the offices of The Robesonian newspaper in Lumberton, Robeson County, North Carolina.

2. That these criminal charges are denominated as "State of North Carolina v. Eddie Hatcher a/k/a John