

## Judge Norma Holloway Johnson and her Role in the Clinton-Gore Campaign Finance Sandal

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### Introduction

Judge Norma Holloway Johnson was accused of unethical judicial behavior in January 2000 when she bypassed standard operating procedures and assigned the prosecution of seven Democratic fund-raisers to judges appointed by President Clinton. The standard operating procedure for assigning cases is a random assignment schedule. The Chairman of the House Judiciary Committee, Representative Howard Coble, called for an inquiry of her actions (Associated Press, 2000, p.5A). The question is whether or not the Judge had done anything unethical or under the table? To answer this question, a look into Judge Johnson's past will have to be completed.

### Biography of Judge Norma Holloway Johnson

Judge Norma Holloway Johnson was born in rural Lake Charles in 1932 and started working at the age of 12 to support her family. Judge Johnson worked as a schoolteacher as she went to Georgetown University for her law degree, graduating in 1961 (Leonnig, 2004, p DZ04). Just nine years of practicing law, she, a registered Democrat, was appointed to the newly created Superior Court of D.C. by President Nixon in 1970 (ibid.). Judge Johnson was one of two women appointed to this bench and the only black woman. Ten years later, Judge Norma Holloway Johnson became the first black woman appointed to Washington's Federal Court in the 9<sup>th</sup> Circuit by President Jimmy Carter (Marcus, 1998 p. A20). In 1997 she became the first black woman to become the Chief Judge of that Court. On June 18, 2001, Chief Judge Norma Holloway Johnson left the bench and became a senior judge for the 9<sup>th</sup> Circuit U.S. District Court (Judicial Milestones, 2001, p.6). It has been reported that the Judge was scheduled to take senior status much earlier than she did, but she stayed on as a judge while the investigative probe was ongoing (Leonnig, 2004 p. 3). The Judge finally retired from the bench on December 31, 2003 (Judicial Milestones, 2003, p.6).

### Judge's work ethic

As a U.S. District Court Judge and later as Chief Judge, Norma Holloway Johnson was a stickler for courtroom decorum and proper procedure. She would further express her outrage when certain defendants would be convicted of a crime of embezzlement. Judge Johnson's former law clerk Matt Olsen recalled his paralyzing fear as she would accost defendants and attorneys alike. Nevertheless, he continued to share that the whole training session when he became a U.S. Attorney was for the benefit of learning how to meet Judge Johnson's courtroom standards (Leonnig, 2004, p DZ04).

Judge Johnson did not hold back her opinion and attitude while sentencing public officials. When sentencing Rita Lavelle to six months in prison for lying to Congress, Judge Johnson stated, "You violated the public trust, and your perjury offends and strikes at the very core of the trust conferred to [sic] you" (Marcus, 1998 p. A20). When a Democratic Illinois representative was sentenced to 17 months for the charge of mail fraud, she told him, "The guilty pleas do not reflect the breadth of your crimes. In your important position, you capriciously pursued a course of personal gain for you, your family, and your friends. You have stained them, as well as yourself, and the high position you held" {sic} (Marcus, 1998 p. A20).

Not being a Judge to hide from controversy, she added four months to the maximum sentence of 33 months for the actions of former Representative Enid Greene Waldholtz (R-Utah). Judge Johnson cited heroin addiction, bounced checks, and stolen credit cards from family and friends while awaiting sentencing as the reason for the additional time. Judge Johnson told Representative Waldholtz, "No sentence is sufficient to atone for your crimes" (Marcus, 1998 p. A20).

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One case that shows that Judge Johnson respects the United States and its laws and rules is the case involving William J. Burns from the Agency for International Development, who plead guilty to the charge of embezzling more than \$1.2 million from AID. Judge Johnson increased the maximum sentence of three years to five years because the defendant had stolen from the U.S. taxpayer. The Supreme Court overturned the conviction (Marcus, 1998 p. A20). All of these cases show that the Judge has high respect for the law and little regard for those that violate the trust of the United States of America.

A 1993 study showed that Johnson's reversal rate was 19%, compared with an average rate of 17% for all other District Judges. She has received great applause from her co-workers and attorneys that have done business in her Court. She is described as fair, up to every task, has a good sense of essential, and willing to address any issue regardless of the ramifications (Marcus, 1998 p. A20).

On the other hand, Judge Johnson is the most private of all District Judges. A heavy critic of the media and their demands for access to the courtroom denies almost all interview requests (Leonnig, 2004, p DZ04). Judge Johnson is the only Judge who locks her chamber doors even while in them and rarely allows the press into the courtroom. Her assistants know off the bat that she will not grant interviews because of her distrust of the fourth estate (Marcus, 1998 p. A20).

This secrecy of her actions in and out of the courtroom caused rise to the question, what is she hiding? What does she not want the public to gain knowledge? In the criminal justice field, corruption happens in secrecy when no one can see what is going on. For most police officers, it occurs on the night shift; it happens behind locked doors in the judiciary. All of this secrecy that Judge Johnson hides behind makes her a target of the Republican political machine when she appears to come against them during President Clinton and Monica Lewinsky's scandal.

### **The Magnificent Seven, Kenneth Starr, Monica Lewinsky, and President Clinton**

When the investigation into Clinton and Gore's misconduct started, Judge Norma Holloway Johnson was the Judge that oversaw all of the actions of Independent Counsel Kenneth Starr. Before the Lewinsky investigation, the self-proclaimed "Magnificent Seven," Clinton appointed judges, committed obvious errors to protect Clinton's political interests (Rotunda, 2000, p2). In 1997, President Clinton gained his eighth judge to defend his interests, and friends claim Rotunda (2000, p2). Ronald D. Rotunda, a professor of law at the University of Illinois, was a special consultant to Kenneth Starr and dealt with the 9<sup>th</sup> Circuit Court supervised by Judge Holloway Johnson. He stated that the investigation of the Office of Independent Counsel often found its investigation delayed and disadvantaged by the lower district court rulings of Judge Norma Holloway Johnson, which were subsequently reversed on appeal (Rotunda, 2000, p2).

Over the next three years, Judge Johnson ran blockade for those who attacked President Clinton. In one instance, Kenneth Starr requested that Bruce Lindsey and Sidney Blumenthal testify to their knowledge about the "Lewinsky Affair" and the impeachment process, which the Clinton Whitehouse was blocking. Judge Norma Holloway Johnson made the decision. The Judge ruled for Kenneth Starr and stated that Lindsey and Blumenthal would testify before the Grand Jury. However, the Clinton team did not go away empty-handed. Judge Johnson ruled that conversations between President Clinton and his aides are private, and thus conversations about his relationship with Lewinsky can be protected by executive privilege (Lemons, 1998, p.1).

On October 30, 1998, Judge Johnson opened a 23-page order which accused Kenneth Starr and the Office of Independent Counsel of breaking the federal law regarding grand jury secrecy in the Monica Lewinsky case. In an apparent attempt to delay Kenneth Starr, Judge Johnson released an order accusing the Office of Independent Counsel of leaking confidential judicial information to the media. In the report released by Judge Norma Holloway Johnson, she listed 24 different examples of prima facie evidence that appeared in the press and could only be published by Kenneth Starr and his office (Conason, 1998, p2-3). Judge Norma Holloway Johnson appointed a "special master" with full subpoena power to investigate Rule 6 (e) violations, which protects the sanctity of grand jury proceedings. The findings of the special master would be used to charge Kenneth Starr's office with contempt of Court.

These actions reinforced the Clinton legal team's allegations that Kenneth Starr participated in patrician politics and was on a witch hunt to "get" President Clinton (Conason, 1998, p2-3). As a result, President Clinton was impeached for his perjury and obstruction of justice charges in his relationships with Linda Tripp and Monica Lewinsky but was acquitted by the Senate. President Clinton was saved by the Magnificent Seven plus one because of the bickering between Kenneth Starr and Judge Norman Holloway Johnson.

### **Judicial Watch's Allegations**

The Republican Party was not about to give up. Although they could not get President Clinton, a patrician conservative watchdog group called Judicial Watch filed a complaint with the Judicial Council in August 1999 (Judicial Watch, 2000). Judicial Watch requested that an investigation be started to look into the allegations that Chief Judge Norma Holloway Johnson had improperly bypassed the random case assignment process when she directly assigned cases concerning Presidential friends being assigned to judges appointed by President Clinton. Further, they also wanted a probe to look into the secret meetings between Clinton appointees in the D.C. Circuit. The order was made on February 9, 2000. With the support and urging from Congressman Howard Coble, the Chairman of the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary United States, House of Representatives (Judicial Watch, 2000).

### **The Rules of the 9<sup>th</sup> Circuit Court Washington D.C.**

It is essential to look into the rules as they are mandated by the United States Courts Department and, more specifically, the 9<sup>th</sup> Circuit of Washington DC. For example, when you ask the United States Courts Department about the assignment of cases, you get the following answer:

Judge assignment methods vary. The primary considerations in making assignments are to assure equitable caseload distribution and avoid judge shopping. By statute, the Chief judge of each district court is responsible for enforcing the Court's rules and orders on case assignments. Each Court has a written plan or system for assigning cases. The majority of courts use some variation of a random drawing. A straightforward method is to rotate the names of available judges. At times judges having unique expertise can be assigned cases by type, such as complex criminal cases, asbestos-related cases, or prisoner cases. The benefit of this system is that it takes advantage of the expertise developed by judges in certain areas. Sometimes cases may be assigned based on geographical considerations. For example, in a large geographical area, it may be best to assign a case to a judge located at the site where the lawsuit was filed. Courts also have a system to check if any conflict would make it improper for a judge to preside over a particular case (U.S. Courts, 2005, online).

Looking at this answer itself does not allow that the Judge had done anything wrong in itself. However, the rule does imply that shopping judges are frowned upon. The regulations of case assignment according to the 9<sup>th</sup> Circuit Court are as follows:

The assignment of cases to justices of the Court shall be performed by the Clerk [sic] under the direction of the Calendar and Case Management Committee. The Committee shall be composed of no less than three and five active judges appointed by the Chief Judge for two-year terms. All matters dealing with the assignment of cases, including but not limited to any efforts to restrain or avoid the enforcement or application of rules under this part, shall be referred to the Chairman of the Calendar and Case Management Committee for resolution by the Committee (Prettyman 2003, p51, 52).

Looking at these rules, it does appear that the Judge violated the established policy of the Court in the way cases were to be assigned.

### **The cases and their results**

Judge Norma Holloway Johnson directed seven prosecutions of Democratic fund-raisers to judges appointed by President Clinton, bypassing the established rules of case assignment (Associated Press, 2000 p. 5A). These seven cases were not the first cases that the Judge specially assigned. The defendants involved in the trials were; Charlie Trie, Maria Hsia, Webster Hubbell, Howard Glicker, Pauline, Kanchanalak, and Mark Jimenez. Since 1994, only two other cases have been assigned outside the established selection process (Burton, 2000, p. 1). These cases were transferred to President Clinton's "Magnificent Seven" judges. The Hubble case was assigned to Judge James Robertson. Judge Paul Friedman was appointed to the cases against Charlie Trie, Maria Hsia, and Pauline Kanchanalak. In the case of Maria Hsia, the Judge started by requesting that the Justice Department assign the case to Judge Friedman, then turned around and used her request to assign the case to Judge Rotunda (2000, p.2). Professor Rotunda stated, "Some people launder money; others launder requests. I have never heard before of a judge playing such cat-and-mouse games in an apparent effort to hide her motives" (2000, p 2). Howard Glicker's case was assigned to Judge Henry H. Kennedy Jr. Mark Jimenez's case was placed in Judge Emmet G. Sullivan's Court (Rotunda, 2000, p. 2). These case assignments were going on simultaneously as the Office of Independent Counsel investigation of President Clinton was going on.

## Aftermath

The judges first delayed the hearings for as long as possible without being looked too closely at and then gave punishments that did not suit the crimes committed. Four non-Clinton judges in the D.C. court, appointed by both Democrats and Republicans, were so upset with the actions of the Chief Judge that they anonymously advised the press of what was taking place (Rotunda, 2000, p. 2).

Evidence shows that Vernon Jordan, a Clinton confidant, personally interceded in the case involving Howard Glicken, requesting leniency in punishment from the Judge. Glicken was sentenced to community service work and probation for two misdemeanors (Yost, 2000, p. 1).

## Opinion and Conclusion

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