

Thursday – May 15, 2008
Citizens' Forum On Judicial Accountability

Statement of Nancy Swan

In 1996, I called the Mississippi Commission on Judicial Performance and asked if I had grounds for a formal complaint. I explained that my case had been stalled for nine years by a judge who had a conflict of interest. I was assured by the director that my call would be confidential. Somehow, one of my attorneys, Judy Guice, learned of my inquiry. She was furious and threatened, if I proceeded through with a complaint, "No attorney will take your case ... no judge will hear it. End of case." She was right: my attorneys ultimately abandoned me, I never found another attorney to take my case, and my case was dismissed.

Dozens of attorneys described my claim as a textbook tort case. During a school roofing project, in October, 1985, over one thousand students and teachers were repeatedly exposed to toxic levels of the same isocyanate that had killed over ten thousand people in Bhopal, India a year earlier. Many at my school fell seriously ill. I was one of the injured teachers.

Attorney Paul Minor filed my claim in 1986. Mr. Minor also filed the consolidated claim of two dozen other injured students and teachers. For the next fifteen years, our cases languished in a system notorious for corruption. Five judges ruled on my case. My first judge, Vincent Sherry, was shot to death, in his own home. Judge Jerry Terry, the one I first complained about, was asked to step down by the Mississippi Supreme Court for exhibiting extreme bias. Judge Robbie Taylor committed suicide shortly after his indictment on embezzlement charges. Justice Oliver Diaz, was indicted for bribery, fraud, and racketeering. My last judge, John Whitfield, is currently serving a federal prison sentence along with my own attorney, for bribery, fraud, and racketeering.

Four months after my call to the Commission, Judge Terry was asked by the state supreme court to recuse himself from my case. When Judge Terry stepped down, I was relieved. But, the relief was only temporary.

In 2000, I became aware of an unethical relationship between my new judge, John Whitfield, and my attorney Paul Minor. This time, I filed formal judicial complaints. This time, there would be hell to pay.

Both of my attorneys orchestrated their withdrawals on the day of trial. Judge Whitfield conspired with my attorneys to withhold records and a financial accounting of my case- even going so far as to personally remove documents from the courthouse. Both Minor and Judge Whitfield relentlessly attacked my character and my integrity. Judge Whitfield sealed my court records to protect himself and my attorneys. He summarily dismissed my case, with prejudice, on his last day on the bench. The threats had become reality. No attorney took my case, no judge heard it. End of case.

Judge Whitfield also issued a gag order, threatening, that I continued to speak out, I would be jailed, fined or both. But, I refused to remain silent.

In 2001, I went public. I began writing a series of editorials about the failures of both the peer and legislative judicial oversight commissions. Statewide newspapers published all my letters. My research uncovered evidence that the state was not auditing judicial campaign finance reports. One of my letters called for an investigation of Mississippi Justice Oliver Diaz after I discovered two suspicious campaign loans totaling almost \$150,000.

I contacted the Commission on Judicial Performance and wrote a letter to the secretary of state requesting an investigation of the suspicious loans. Fearing a state cover up, I also provided information to the FBI. Shortly thereafter, the Department of Justice began investigating Paul Minor, John Whitfield and Oliver Diaz. In March, 2007, Minor and Whitfield were convicted of fraud, bribery, and racketeering.

Even after the convictions, none of Whitfield's orders have been reversed. My case remains dismissed. My records remain sealed. The Commission on Judicial Performance has repeatedly refused to reopen my complaints. Over seventy attorneys have declined to represent me. All heard my story, but everyone claimed either a conflict of interest -- or taking the case would be professional suicide.

For those like me who dare to file complaints against judges, judicial revenge is a reality. Without protection for judicial whistle blowers and attorneys who may represent them, those willing to testify at forums like this are forced to fight alone. Some of us, along with our families and friends take great risks when oversight commissions refuse to hold lawyers and judges accountable.

We have been betrayed by those commissions, lawyers, judges, and lawmakers who stand by -- and do nothing to defend our rights. State and federal oversight committees add to the problem by using secrecy to conceal their failures.

Our only hope to restore the integrity of our nation's courts is to have complete transparency in the hearing and disposition of complaints and real, effective oversight of the bar and judicial commissions.

I do not want anyone else to suffer my fate.

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