



STATE OF ALABAMA
ADMINISTRATIVE OFFICE OF COURTS
817 South Court Street
Montgomery, Alabama 36130

ALABAMA COURT NEWS

Newsletter of the Alabama Judicial System

February, 1986

Town Of Centre Centered Around Clerk's Office

Centre, the bustling economic and governmental center of Cherokee County, lies in a valley between the foothills of the Appalachian chain and Lookout Mountain.

Just as one might assume that Centre's name was derived from its geographical location in the county, it would also be logical to guess that Lookout is the mountain country group Alabama sings about in their hit record "My Home's in Alabama." Those boys grew up in Fort Payne, up the road 30 miles and the other county seat in the state's 9th Judicial Circuit.



Cherokee County Circuit Court Clerk Jerry "Pete" Trammell and his staff. From left to right, Ruth Tidmore, Mary Trammell, "Pete" Trammell, Janice Dean, and Betty Ann Lowe. Cindy Primes is not pictured.

(See *Centre*, Page 2)

Justice James Faulkner Plans April Retirement

Supreme Court Justice James H. Faulkner has announced he will retire April 1, after 13 years on the State's highest court.

Justice Faulkner, who will be 65 in March, said he would practice law in Birmingham and pursue other interests after he retires. He plans to join the law firm of Johnson, Cory and McNance.



Faulkner

During his tenure on the bench, Justice Faulkner has authored several landmark opinions and has had numerous opinions selected for inclusion in volumes of American Law Reports (ALR) and Judicial Highlights published by West Publishing Company.

Justice Faulkner wrote the majority opinion in a case which expanded State law to make it easier for consumers to litigate for damages caused by defective products.

He also broadened the
(See *Faulkner*, Page 6)

Supreme Court Approves Procedural Rule Change

On December 2, 1985, the Supreme Court approved a change to temporary Rule 19 of the Alabama Rules of Criminal Procedure (ARCrP). This rule change allows a defendant, in certain circumstances, to file with the court a written plea of not guilty in lieu of a "formal" arraignment. The circumstances that apply in this rule are:

1. Defendant must be represented by counsel

and both must sign the waiver of arraignment.

2. The age and birth-date of defendant must be stated on the form.

3. Defendant is to acknowledge receipt of a copy of the charges against him.

4. The courts shall not accept a written plea of not guilty if defendant is eligible for youthful offender status.

(See *Rule*, Page 2)

Centre

(Continued from Page 1)

In the center of the first floor in the red brick courthouse, which sits in the center of downtown Centre, you'll find the office of Jerry G. "Pete" Trammell, Clerk of the Circuit Court of Cherokee County.

The court at Centre serves Cherokee County. Circuit Judges Randall Cole and David Rains hold circuit court at Centre and at the DeKalb County Courthouse in Fort Payne.

It's a friendly sort of courthouse. The Baptist minister drops in and drops several funny lines.

The tax collector, Robert Moon, is introduced and begins a discussion about pipes. When retired District Judge Hy Lumpkin gave up pipe smoking, he presented an assortment of pipes to Robert. "Except one," Moon allowed. "That one he keeps to occasionally puff on when Mrs. Lumpkin goes shopping."

Between office work and checking upstairs where District Judge John Coggin is holding court, Pete talks about the work of the state's circuit clerks. He's president of the association this year.

"You know, in every county the clerk's office is the paperwork heartbeat of the court system," he says. "I know that the vast majority of our clerks are dedicated, competent and hard-working officials and it's a great honor for me

to serve as their president. With the help of you folks at AOC, we are now better able and better equipped to serve the citizens in our respective counties."

Dot Trammell, Betty Ann Lowe, Ruth Tidmore, Cindy Grimes and Janice Dean make up the staff of the clerk's office.

"We're a pretty close knit group here," Pete explains. "We work cooperatively with the other offices in the courthouse." Moon nods in agreement, then departs to locate a catalog of pipes for me to look through.

Rule

(Continued from Page 1)

The waiver of arraignment procedure has been used in the Alabama Court System for some time. In 1973, local legislation was approved to allow the waiver of arraignment for the Circuit Court of Montgomery County. Since that time, similar legislation has been passed in Houston, Jefferson, Barbour, and Bullock counties.

Courts that sought local legislation to allow the waiver of arraignment did so in order to reduce the in-court time required for formal arraignment.

Normally, the judge, court reporter, bailiff, district attorney, clerk and defense attorneys are present at arraignment. With the number of court

officials involved, any reduction in time will result in monetary savings. Additionally, if a written plea is filed, indigent defense costs may be reduced as appointed counsel would not have to appear in court.

The effectiveness of the waiver of formal arraignment may depend on the procedure the court uses for appointing counsel to indigent defendants. If the arraignment hearing is used for the determination of indigence and appointment of counsel, the waiver option may not be used extensively. The previously mentioned courts report a higher volume of written pleas when counsel has been appointed prior to arraignment.

"Larger courts may find the new procedure particularly helpful," said Judge Randall Thomas, Presiding Circuit Judge, 15th Judicial Circuit. "We use the written plea extensively in Montgomery because it reduces the number of defendants appearing at formal arraignment. Without this option, our arraignment dockets would take two to three times longer to handle. The 'waiver of arraignment' has certainly reduced the pressure on us," Thomas said.

Administrative Office of Courts' staff has designed the waiver of arraignment form in accordance with the revised rule. The form may be obtained by the clerks through the purchasing division of the Administrative Office of Courts.

Atmore Attorney Appointed To Bench In 21st Circuit

Governor George C. Wallace has named Atmore



Brogden

Attorney Joseph B. Brogden to fill the unexpired term of Douglas S. Webb, who retired on January 1, 1986. Judge Webb had served as circuit judge of the 21st Judicial Circuit

since 1965.

Prior to his appointment, Brogden had practiced law in Atmore since 1969 and had served as part-time assistant district attorney of Escambia County for over five years.

He received his undergraduate degree from Auburn University in 1962 and his law degree from Cumberland School of Law in 1969.

Federal Grant Funds Sexual Abuse Study

The Research Unit of the Association of Family and Conciliation Courts (AFCC) and the American Bar Association have been awarded a grant from the federal office of Human Development Services to study sexual abuse allegations in divorce cases. The goal of the study is to document how court officials are presently handling such matters, identify preferred procedures, and develop educational materials on the subject.

Court officials desiring to participate in the study should contact the AFCC at the following address:

Ms. Jessica Pearson
AFCC/Research Unit
720 Emerson Street
Denver, Colorado 80218
303-837-1555

Registers McCollum And Christopher Announce Retirement

Madison County Register Dovie P. McCollum and Choctaw County Register James A. Christopher have recently retired from the Alabama judicial system.

Ms. McCollum retired from office on December 31, 1985, after serving as Madison County Register for 22 years. The duties of her office have been assumed by Madison County Circuit Clerk Billy Harbin.

Christopher had served as Choctaw County Register since 1959. His retirement was effective January 3, 1986. Choctaw County Circuit Clerk Donald R. Gibson assumed the duties of the register's office.

Both Ms. McCollum and Christopher were sworn in as supernumerary registers upon their retirement.

Escambia County Bar Pays Tribute To Judge Webb

"I came home to practice after finishing law school because home was better than any place I know of," said Judge Douglas S. Webb to a group assembled to honor him on the eve of his retirement.

Judge Webb came home. And stayed home. When he retired on January 1, he had served continuously on the bench in his native county for 21 years.

The Escambia County Bar Association held a reception in Judge Webb's honor in Brewton on December 17.



Escambia County Bar President James E. Hart, Jr. (l) hosts reception for Judge Webb (r).

At the reception, Chief Justice C. C. Torbert, Jr., presented the judge with a Certificate of Recognition for his service on the circuit bench.

"Doug Webb worked long and hard for improvements in the judiciary," said Torbert. "Throughout the State of Alabama, his name is synonymous with judicial excellence. He constantly seeks the best of himself and others."

Ruling Provides For Disposal Of Old Newspapers

The Alabama Supreme Court and the State Records Commission recently approved a records retention schedule change which allows all circuit clerks and registers to dispose of old newspaper files.

In 1984, the Alabama legislature deleted the requirement that circuit clerks and registers maintain copies of newspapers. However, until this retention schedule change, no provision had been made for disposal of old newspaper files which consume much-needed storage space.

Since some of the newspapers on file throughout the state may be of historical interest to the State Department of Archives and History or local libraries and historical societies, the schedule change provides that the newspaper files be offered to 1) the Department of Archives and History for inclusion in their newspaper microfilming project; 2) the probate judges' office to fill any gaps in their newspaper collection; and 3) the local library or historical society.

Any newspapers that remain may then be destroyed.

Clerks and registers will find the implementation of this schedule to be a valuable tool for freeing up much needed storage space.

Clerks, Registers Meeting Set For February 19-20

Chief Justice C. C. Torbert, Jr., will open the mid-winter conference of clerks and registers next month with a discussion of the state of the judiciary. The meeting will be held at the Madison Hotel in Montgomery on February 19-20.

The morning session will also include a review of the duties and legal authority of clerks and registers by Madison County Clerk and Register Billy Harbin, to be followed by a presentation on the signature authority for these

officials by Lane Mann, Legal Counsel for the Administrative Office of Courts.

During the afternoon, clerks and registers will be divided into groups for a discussion of case management. AOC's Trial Court Operations staff will conduct this portion of the program.

On Thursday, the newly implemented Fair Labor Standards Act and its requirements will be reviewed by the Administrative Office's Operations Division staff.

Revised Form Ready For Use

The Supplemental Disposition Form (UTC-5) has been revised to update the reporting of dispositions of appealed traffic cases to the Department of Public Safety.

The revised UTC-5 is designed to be consistent with the Court Record copy of the traffic ticket. It includes information unique to circuit court dispositions for appealed traffic cases. The form will improve the compilation and flow of conviction information on traffic offenders to the Department of Public Safety.

Copies of this form are available to circuit courts and may be ordered from

*The family of
James E. Smith, III
expresses their deepest
appreciation to the
Circuit Judges of Alabama
for their kind expressions
of sympathy*

[Editor's Note -- James E. Smith, III, Court Referee in Limestone County and a former Circuit Judge in Lauderdale County died on December 8, 1985.]

the Administrative Office of Courts printing service.

Questions regarding this form should be referred to Liz Ward at the Administrative Office of Courts, 1-800-392-8077.

DUI Law Enforcement Survey Released

As part of the process of qualifying for certain federal alcohol traffic safety funds, the Highway and Traffic Safety Division, Department of Economic and Community Affairs, conducted a survey of state and municipal courts to determine compliance with the mandatory jail/community service provisions of the 1983 DUI legislation.

A sampling plan was designed by the Computer Sciences and Engineering Department of Auburn University to get a representative cross section of courts. The sample consisted of cases from one circuit court, ten district courts, and seventeen municipal courts.

The Department of Public Safety provided the names of persons from each court

who were treated as multiple offenders for the purposes of drivers license sanctions.

All multiple offenders were grouped so that no distinction was made between second offenders and other multiple offenders.

Each offender's name was then checked against local court records to determine how much jail time or community service was actually served (not merely sentenced). The following is a summary of the results of this survey:

A. 56.3% of the sample actually served jail time.

3.5% of the sample served community service.

11.2% were treated as multiple offenders but served no jail time or community service.

26.2% were treated by the courts as first offenders.

2.8%, no record was found by the courts.

B. The average jail time served by the multiple offender was 29 days.

C. The average community service duration was 26 days.

"We want to express our thanks and appreciation to the Department of Public Safety, the Auburn University Computer Sciences and Engineering Department, the Administrative Office of Courts, and all the local court personnel who cooperated with us in this undertaking," said Ruby S. Noonan, Chief, Highway and Traffic Safety Division.

Juvenile Probation Officers Study Symptoms Of Substance Abuse

The Central Alabama Regional Council on Alcoholism recently sponsored a one-day training session for Montgomery's juvenile probation officers.

The workshop presented extensive information on the signs and symptoms of substance abuse as well as statewide programs available for referral. Several treatment programs were represented to discuss the different types of therapy available to probation personnel and how to make use of their programs.

Mrs. Callie Longshore, State DUI Programs Coordinator, concluded the workshop with a presentation of the court's role in substance abuse intervention and treatment.

"We believe this was one of the best workshops we've provided," said Alice Harbin, Director of the Regional Council on Alcoholism. "The probation officers are aware of the needs of youth in this area and are anxious to get these juveniles the help they need," she said.

UTC ORDERS SHIPPED

Uniform Traffic Ticket orders have been shipped to law enforcement agencies for the calendar year 1986. Agency officials should sign and return the white copy of the invoice and receipt form included with the order to the Administrative Office of Courts. Any errors in the shipment should be noted on the form.

The new tickets should not be issued to officers until all tickets already on hand have been used.

If you have any questions, please contact Liz Ward, 1-800-392-8077, ext. 240.

Prison Inmates Win Few Law Suits

Inmates win monetary damages or settlements in only a minuscule number of the lawsuits they file against state and federal correctional systems, according to a survey recently compiled by the Contact Center, Inc., Lincoln, Nebraska.

For a two-year period in the survey, 34 correctional systems identified only 87 suits lost and 161 settled resulting in monetary damages paid to inmate plaintiffs. This represents only a small proportion of the more than 22,000 prisoner civil rights petitions filed in district and appeals courts during the last 12-month reporting period.

An analysis by nature of suits and system size

reveals that though there are occasional large awards, massive monetary awards to inmates are not as common as correctional systems may fear and inmates and their advocates may hope.

The survey also indicates that fewer than one-quarter of lost or settled inmate suits included attorney fee awards.

The information on inmate lawsuits resulting in monetary damages was gathered from state systems and the Federal Bureau of Prisons in early 1985.

For further information concerning this survey, contact Contact Center, P. O. Box 81826, Lincoln, NE 68501.

Faulkner

(Continued from Page 1)

rules of evidence in an opinion which cited an insurance company for acting in bad faith by failing to pay a claim; and he wrote to uphold a ruling which had found a county negligent for failing to maintain adequate markings on public roads.

Justice Faulkner was born in Louisville, Miss. Following graduation from high school, he enlisted in the U.S. Marine Corps and served until his discharge in January, 1942, to accept an appointment as cadet, U.S. Army Air Corps. Commissioned in September, 1942, he flew 51 missions

in the Middle East, European and Asian Theatres, receiving the Distinguished Flying Cross, Soldier's Medal, Air Medal with Oak Leaf Clusters, and the Greek Military Cross.

He attended San Diego State College and the University of Alabama, where he was graduated from the Commerce School in 1947 and Law School in 1949.

In 1951, he left a general practice of law in Birmingham to serve with the Treasury Department until 1955, when he was appointed Trust Officer of the Birmingham Trust National Bank.

After his association with the law firm of Bowers, Dixon, Dunn & McDowell

Martha J. Embry Retires Feb. 1

Martha J. Embry, official court reporter to Judge Robert R. Armstrong, Jr., retired on Feb. 1, 1986. She had served as official court reporter in the 18th Judicial Circuit for 15 years.

"Ms. Embry has done a fine and conscientious job," said Judge Armstrong. "Although there is a good deal of stress involved in a court reporter's job, she always showed a calm demeanor in performing her duties in court. She will be missed," he said.

Carla King, a recent graduate of Prince Institute in Montgomery, will replace Ms. Embry.

from 1958 to 1964, he opened private law offices in Birmingham and Montevallo, where he practiced until elected to the Supreme Court in 1972.

In 1979, Justice Faulkner received a scholarship from the National Endowment for the Humanities for a law seminar conducted at the University of Virginia School of Law. In 1980, he received a scholarship from the University of Virginia School of Law for study leading to a Masters of Laws Degree in the Judicial Process, which was awarded in April, 1982.

Justice Faulkner is married to the former Eleanor Jane Wyatt of Birmingham and they have two children, a daughter, Kate, and a son, Christopher.

Management Of Stress Essential To Good Health

Following are excerpts from an article by C. Robert Showalter and Daniel A. Martell which appeared in a recent issue of Judicature:

Stress management and personal health care are closely related phenomena. All too frequently, the issue of positive health maintenance emerges only after symptoms of illness appear. Such symptoms may be treated in a specific and focused manner without sufficient attention being given to the broader issues of the general health status of the patient.

Four basic elements of a health maintenance/stress management program can be identified as fundamental to any effort toward full integration of mind, body, and spirit:

1. Prudent Nutrition.

a) Consume a balanced diet containing representatives of each of the four basic food groups (meat, dairy products, fruits and vegetables, grain and cereals) each day.

b) Limit alcohol consumption to five drinks each week.

c) Use only very small quantities of caffeine.

d) Adult males should consume only two servings of red meat each week.

e) Eat at regular intervals spaced appropriately throughout the day.

Figures Show Big Increase In Child Support Payments

Figures recently released by the Department of Pensions and Security indicate an increase in ADC and non-ADC collections for the fiscal year ending September 30, 1985.

The table below compares ADC collections for the two fiscal years.

Indicator	FY 83-84*	FY 84-85*	% Increase
Total ADC Collections	\$9,494,167	\$12,001,600	26
Average Collections Per ADC Child	\$ 89.25	\$ 114.33	28
*Excludes small amount of out-of-state URESA collections.			

Non-ADC collections totalled \$10,599,330 -- a 233 percent increase over the previous year's collections of \$3,198,626. The major reason for the significant growth in this area has been the use of income withholding.

Collections from State and Federal tax refund offsets grew significantly, increasing from \$2.34 million in FY 1983-84 to \$2.9 million in FY 1984-85.

f) Make sure that mealtime is a time of relaxation.

2. Effective exercise.

The aim of an effective exercise program is the discharge of emotional tension through release in the form of vigorous muscular activity. The only physiological requirement for an adequate exercise program is that the heart rate be elevated to 120 beats per minute for a sustained period of 20 minutes at least three times each week.

3. Consistent Relaxation.

A well-defined relaxation response should be programmed into each day. To induce an acceptable level of relaxa-

tion, the individual should sit or lie quietly in a comfortable position with eyes closed. Slow breathing rate and clear the mind of any "mental agenda" for 15-20 minutes, with a few minutes at the end to quietly review the remaining challenges of the day.

4. Development of a unified philosophy of life.

An integrated philosophy of living may well be considered the nucleus of the basic health maintenance concept. Fundamental to this integration is the development of a candid sense of oneself, including a realistic assessment of personal strengths and weaknesses.

First Certificates Of Continuing Education Awarded

Chief Justice C. C. Torbert, Jr., awarded the very first Certificates of Continuing Judicial Education to Circuit Judges Marvin Cherner (10th Circuit), Leslie G. Johnson (11th Circuit), and Wadell C. Zanaty, Jr., (10th Circuit) at the January Mid-Winter Conference of Circuit and District Judges in Montgomery.

In presenting the certificates, Torbert cited the judges for being "leaders in our system for judicial

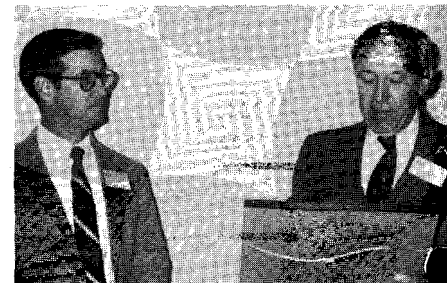
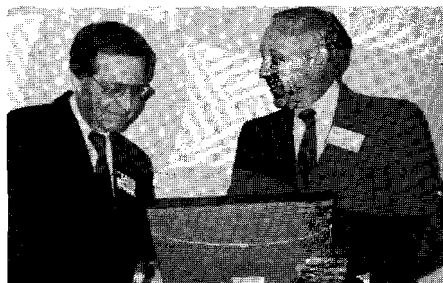
education."

"Not only have they regularly attended conferences, but they have frequently served as faculty members," he said.

The Judiciary Certificate Program was inaugurated in January, 1984, and certificates are awarded to judges who complete 100 hours of instruction offered by the Judicial College within a four-year period.

There are 174 judges currently enrolled in the certificate program--97 of the 124 circuit judges (78%); 68 of the 95 district judges (72%); 7 retired judges, and 2 appellate judges.

"We are very pleased that so many of our judges recognize the importance of active participation in judicial education seminars and that they have chosen to work toward a certificate," said Torbert.



Chief Justice C. C. Torbert, Jr., awards certificates to (l-r) Circuit Judge Marvin Cherner, Circuit Judge Wadell Zanaty, and Circuit Judge Leslie Johnson.



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