

D.C. judge probed on 'steered' cases

Accused of sending presidential-pal trials to Clinton appointees

By Pete Yost
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WASHINGTON — In a rare step, a judicial panel has hired a former U.S. Attorney to investigate why the chief federal judge in Washington specially assigned the cases of presidential friends to judges appointed by President Clinton, legal sources said yesterday.

Joe D. Whitley, a Republican who served in the Reagan and Bush administrations as a prosecutor in Georgia and Washington, will conduct the investigation of U.S. District Judge Norma Holloway Johnson, according to the legal sources, who spoke only on condition of anonymity.

Whitley will work for the five-judge panel that is overseeing a misconduct complaint against Johnson to determine why she bypassed the normal random case assignment system in a half-dozen prosecutions in the fund-raising and Whitewater investigations.

In each instance, Johnson, a Democratic appointee, sent cases to judges appointed by Clinton, and in one instance she urged federal prosecutors to request a specific judge appointed by him.

The cases included those of presidential friends Webster Hubbell, a Whitewater figure, and Charlie Trie, a key Clinton fund-raiser.

After the Associated Press first disclosed special assignments in the Trie and Hubbell cases last year, Johnson wrote a letter saying her decision was not politically motivated and simply was designed to shift complex cases to judges with open schedules.

She has repeatedly declined requests for additional comment.

The legal sources at the federal courthouse in Washington say the five judges overseeing the probe will work with Whitley to complete the investigation swiftly, perhaps in a matter of weeks.

Based on the findings of Whitley and the five judges, the panel will make a recommendation to the Judicial Council of federal appeals and district judges, who must decide



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A judicial panel has hired a former U.S. Attorney to look into why U.S. District Judge Norma Holloway Johnson departed from judicial procedure to assign cases involving presidential friends to judges appointed by President Clinton.

whether to discipline Johnson.

The council's decision could be appealed to the Judicial Conference, the policymaking body for the U.S. court system.

Legal experts said the hiring of outside counsel to investigate a judge's conduct is relatively rare.



WHITLEY

"I can't think of any parallel situation in which it became known that an outside investigator has been hired," said New York University law professor

Stephen Gillers. "Usually it's all done internally."

Whitley declined comment through a secretary at the Atlanta law firm where he works.

He served as U.S. Attorney in Macon, Ga., from 1981 to 1987, then moved to the Justice Department in Washington, where in 1989 he became acting associate attorney general, the department's No. 3 post. From 1990 to 1993, Whitley served a second stint as U.S. Attorney in Atlanta.

According to courthouse sources,

Whitley will interview Johnson and others about why she bypassed a computer system that randomly assigns criminal cases. Johnson's bypassing of the random system disturbed some of her colleagues, and they have since discarded the rarely used court rule that allowed the special assignments.

The sources said it was unclear whether a separate matter — closed meetings among Clinton-appointed judges at the courthouse — also will be investigated.

Judicial Watch, a conservative legal group, has filed a formal complaint against Johnson. The group released a letter from the federal appeals court stating that the allegation of secret meetings "remains under advisement."

Pressure also is mounting from Capitol Hill. Rep. Dan Burton (R-Ind.) has asked Johnson to testify May 17 before his House Government Reform Committee. That committee still has not been told whether Johnson will accept the panel's invitation.

Johnson, an appointee of President Jimmy Carter, assigned the tax evasion case against Hubbell and the fund-raising prosecution of Trie to judges recently appointed by Clinton.

The case against the judge

Events that prompted the hiring of a Republican former U.S. Attorney to investigate judicial misconduct allegations against the chief federal judge in the District of Columbia, Norma Holloway Johnson:

July 31, 1999: The Associated Press reports that Johnson bypassed the computer system and directed prosecutions of longtime presidential friends Webster Hubbell and Charlie Trie to judges appointed by President Clinton.

Aug. 4: Johnson defends her actions, saying "politics was not and is never a factor in our case assignments."

Nov. 17: Appeals Judge Stephen Williams dismisses a complaint about the special assignments filed by a conservative group, Judicial Watch.

Jan. 10, 2000: Rep. Howard Coble (R-N.C.) discloses that Johnson assigned additional fund-raising cases to Clinton judges, including the guilty plea of a former fund-raiser for Vice President Al Gore.

Feb. 1: The judges at the courthouse kill the rarely used rule that Johnson used in sending the Hubbell and Trie cases to Clinton-appointed judges.

Feb. 9: Prompted by Coble's disclosures, the Judicial Council of appeals and district judges at the courthouse revives the complaint.
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She also assigned four other fund-raising cases to Clinton judges, including that of Howard Glickin, a former fund-raiser for Vice President Al Gore. Glickin was sentenced to community service. In that case, Clinton confidant Vernon Jordan wrote the judge pleading for leniency.

Initially, the complaint against Johnson for the Trie and Hubbell cases was dismissed by a federal appeals judge. But when Rep. Howard Coble (R-N.C.) disclosed the additional cases, the Judicial Council named the five-judge panel to take a closer look.

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Chief Judge Hires Lawyer In Inquiry Into Assignments

By NEIL A. LEWIS

WASHINGTON, May 6 — Judge Norma Holloway Johnson, the chief federal trial judge in Washington, has hired a lawyer to represent her before judicial and Congressional inquiries into why she assigned several criminal cases involving President Clinton's associates to judges Mr. Clinton had appointed.

The first act of the lawyer, Michael Madigan, in representing Judge Johnson was to tell a Republican-led Congressional investigation that his client would decline to testify at any Congressional committee hearing into her behavior. Mr. Madigan, an experienced Washington lawyer, was last in the spotlight as chief counsel to the investigation by Senator Fred Thompson, Republican of Tennessee, of possible fund-raising irregularities in the Democratic Party.

In a letter to Representative Dan Burton, the Indiana Republican who is the chairman of the House Committee on Government Reform, Mr. Madigan said that Judge Johnson of Federal District Court, would decline the invitation to testify before Congress.

In an interview, Mr. Madigan said it would be unprecedented for a sitting judge to be questioned by Congress about such an issue: "We have the greatest respect for Congress but the constitutional issues of separation of powers are just too great."

The issue stems from complaints

by Republican members of Congress that Judge Johnson bypassed the usual computer-operated system that randomly assigns cases to trial judges under her for a handful of cases. Those cases involved Webster L. Hubbell, an Arkansas friend of the Clintons and former senior Justice Department official and Charlie Yah Lin Trie, a fund-raiser for the president. Judge Johnson assigned those and some other criminal cases involving associates of Mr. Clinton to four judges he named to the bench.

In response, the governing body of the local federal judicial circuit named a panel of five judges to look into the charges. The panel, in turn, recently hired Joe D. Whitley, an Atlanta lawyer and former official in the Justice Department under Republican presidents, to conduct its investigation.

In his letter to Mr. Burton, Mr. Madigan gave some indication of what his approach would be in defending Judge Johnson before the special judicial panel. He said that the practice of going off the random assignment system and handpicking judges in "certain kinds of cases" had been in effect for many years. He cited a policy adopted in 1971 by then-Chief Justice Warren Burger allowing for complex cases to be assigned outside the random system. That method was used, he noted, in cases involving the Watergate and Iran-contra scandals.