

Supreme Court
State of North Carolina
Raleigh

CHAMBERS OF
I. BEVERLY LAKE, JR.
CHIEF JUSTICE

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August 17, 2004

To: Files

From: Chief Justice I. Beverly Lake, Jr. 

Re: Disclosure of Information Concerning the Resignation of John M. Kennedy as
Director of the Administrative Office of the Courts

I am writing this memorandum pursuant to the second paragraph of G.S. 126-24, quoted below, so as to set forth the circumstances which I deem to require disclosure to the public, through the media, of my reasons, as stated in the attached summary, for requesting on July 23, 2004, the resignation of the Honorable John M. Kennedy as Director of the North Carolina Administrative Office of the Courts, and of my actions in connection with that request.

Pursuant to that statute, I have in my discretion determined that my disclosure of this information is essential to maintaining the integrity of the AOC and of our court system, in that:

- It appears that a newspaper article purporting to give reasons for Mr. Kennedy's resignation will soon be published without the benefit of my disclosure of this information,
- My disclosure of this information is essential to create a complete public record, and to minimize the risk of distortions or exaggerations resulting from incomplete public information,
- This information will show that the integrity of the AOC has been preserved and protected by my actions in connection with Mr. Kennedy's resignation, and
- The behavior that called for Mr. Kennedy's resignation had not yet injured or impaired the operations of the AOC in any way.

§ 126-24. Confidential information in personnel files; access to such information.

...

Notwithstanding any other provision of this Chapter, any department head may, in his discretion, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to his department or whose personnel file is maintained in his department and the reasons therefor and may

allow the personnel file of such person or any portion thereof to be inspected and examined by any person or corporation when such department head shall determine that the release of such information or the inspection and examination of such file or portion thereof is essential to maintaining the integrity of such department or to maintaining the level or quality of services provided by such department; provided that prior to releasing such information or making such file or portion thereof available as provided herein, such department head shall prepare a memorandum setting forth the circumstances which the department head deems to require such disclosure and the information to be disclosed. The memorandum shall be retained in the files of said department head and shall be a public record.

Cc: Thomas J. Andrews, General Counsel, AOC

Attachment re: Kennedy Departure

1) I received information about possible cocaine use by the Director of the Administrative Office of the North Carolina Courts, Mr. John Kennedy. In fairness to everyone involved, including Mr. John Kennedy and his family, I endeavored to corroborate this information before taking any action.

2) In order to ensure the reliability of our corroborative efforts, I sought the assistance of law enforcement, as it is their job to investigate potential crimes. I asked the Sheriff for his assistance due to the longstanding success of his K-9 personnel. In other words, I did not want anyone to look in the director's desk (without his knowledge) unless the K-9 dog alerted as to the possible presence of contraband. I determined that the information I had received was reliable after such assistance.

3) The next day, July 23, I asked the Director to tender his resignation. The director complied.

4) That same day, I advised the District Attorney for Wake County, Colon Willoughby, of the situation in order that he might take any further action he deemed appropriate. I took this action because the decision as to whether to charge a citizen with a violation of the law of North Carolina rests solely with the elected district attorney.

5) I believed that asking for the former Director's resignation was necessary in order to protect the integrity and reputation of the North Carolina court system, as this involved a possible violation of North Carolina law.

6) In order to ensure the continuity of systemwide court operations, I appointed an interim director the same day, Chief Deputy Director of AOC, Gregg Stahl. I have since appointed a new director for the Administrative Office of the Courts, retired Court of Appeals Judge Ralph Walker. I have no doubt that Judge Walker carry out his new duties with integrity and in accord with the law.

7) I asked the General Counsel of the Administrative Office of the Courts, Mr. Tom Andrews, to prepare a memorandum permitting the release of confidential personnel information pursuant to N.C.G.S. § 126-24.

8) The former Director worked very hard on behalf of the North Carolina court system, helping us through very difficult fiscal times. The position of director is very stressful, and I greatly regret the human toll to all concerned arising from this turn of events.