

via fax  
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MAR 2 2008

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

NORTH CAROLINA GENERAL ASSEMBLY  
HOUSE SELECT COMMITTEE TO  
INVESTIGATE ALLEGED MISCONDUCT *Amise Weeks*  
COUNTS 1 - 8  
FILE NO. C-LEC-07-002

NORTH CAROLINA GENERAL )  
ASSEMBLY, )  
 )  
v. )  
 )  
REPRESENTATIVE THOMAS )  
WRIGHT )  
 )

**MOTION FOR CHAIRMAN TO  
RECUSE HIMSELF AND FOR  
THE COMMITTEE TO STAY THIS  
MATTER AND REFER TO THE  
SPEAKER FOR FURTHER ACTION**

COMES NOW Representative Thomas Wright and asks the Chairman of this Committee, Rick Glazier, to recuse himself and for the Committee to stay further action and refer this matter to the Speaker of the House for an Appointment of a new Committee to cure the appearance and effects of racial discrimination and disparate treatment of similarly situated individuals who may only be differentiated by race. In support of said Motion, Representative Wright says the following:

1. This motion is based upon new information which came forward last Thursday when former State Representative and former State Senator Fern Shubert came forward and contacted the attorneys representing Thomas Wright saying that she felt compelled to come forward because of the extreme unfairness of what was being done to Representative Wright. Further, she had certain knowledge of information that revealed that Representative Wright was being treated differently than another representative, Pryor Gibson, against whom a complaint had been lodged by Fern Schubert.

2. The unfair treatment Fern Schubert was referring to was that two persons during 2007 had ethics complaints considered by the Legislative Ethics Committee – one

was the Democratic Representative from Union County, Pryor Gibson who is white, and the other is the Democratic Representative from New Hanover County, Thomas Wright, who is black. In each instance, the complaints dated from a period before the current Legislative Session. In Representative Pryor's case, they dated from 2006, and in Representative Wright's case, they dated mostly from 2001 and 2002, but as late as 2006.

3. In each instance the correct determination by the Legislative Ethics Committee would have been that the Committee lacked jurisdiction under the law and under the rules to consider either complaint because the events complained of had occurred in a prior legislative session. This should have been the end of the inquiry by the Legislative Ethics Committee in both the instance of Representative Pryor and Representative Wright.

4. In the case of the white representative, Pryor Gibson, the jurisdictional ruling was the end of the matter. On July 24, 2007, in a decision signed by the current Chairman of this Committee who is also the Co-Chair of the Legislative Ethics Committee, Rick Glazier, it was correctly stated that the alleged conduct "even if true, would not be within the jurisdiction of the Committee."

5. In the case of the black representative, Thomas Wright, however, despite certain knowledge that Thomas Wright's matter would likewise not be within the jurisdiction of the Committee, Co-Chair Rick Glazier instead conducted a full hearing with the Legislative Ethics Committee. Rick Glazier directed the Committee to consider matters "on or about March 13, 2002, and on or about March 15, 2002," despite indicating only five months before in a letter signed by Rick Glazier that the Committee had no jurisdiction for matters that old.

6. Not only did Co-Chair Rick Glazier conduct a hearing for which he acknowledged having no jurisdiction, but on December 11, 2007, he signed "preliminary investigative findings on questions of possible criminal and/or ethical conduct" and found that there was "probable cause" that Thomas Wright had engaged in unethical conduct. There was no jurisdiction to make those findings either.

7. Co-Chair Rick Glazier released this conclusion of unethical conduct to the press and to the members of the General Assembly, despite knowing that the Committee who reached this conclusion had no jurisdiction. This was in vivid contrast to the charge against Pryor Gibson by Fern Schubert which, if left to the Legislative Committee, would have never been known to Thomas Wright or to his attorneys and would have never seen the light of day but for the courageous actions of Fern Schubert. Fern Schubert is a Republican whose interests do not coincide with those of Thomas Wright and her actions can only be seen as an act of decency and a respect for the United States Constitution. Meanwhile, Rick Glazier provided legal precedent to Thomas Wright going back to 1757, but did not see fit to provide legal precedent from 2007.

8. Only on December 12, 2007, after a hearing had been held by the Legislative Ethics Committee, Co-Chaired by Rick Glazier, and after accusatory conclusions had been released to the press did the Legislative Ethics Committee announce, "The Committee has concluded that under the Legislative Ethics Act as it existed at the time that the matters in these documents are alleged to have occurred, the Committee's jurisdiction under the then-existing law would not reach the matters alleged in the indictments." This was virtually the same language which occurs in the July 24, 2007, letter regarding Pryor Gibson which is also signed by Rick Glazier. Both letters

were accurate, but the difference was that one legislator who is black had to go through a full hearing with a decision reached against him whereas the other legislator had the charges against him concealed; there was no hearing and no conclusion was reached. All of these disparate documents, despite the fact that they are diametrically opposed to one another, have one thing in common: they are all signed by Rick Glazier. They also have one dramatic difference. The more severe action with the most effort and trouble taken and the maximum adverse action taken under color of law is taken against a black representative, Thomas Wright, and the least severe and almost totally unobtrusive action is taken against the white representative, Pryor Gibson. The North Carolina Constitution, Article I, Declaration of Rights, Section 19 provides "No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin." 42 U.S.C.A. §1983 prohibits racial discrimination by a State official under color of law.

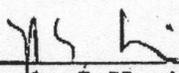
9. A credible source, Fern Schubert, a former State representative and State senator, alleged that Pryor Gibson falsified a written document which was submitted to his colleagues in the House so that a local bill could be considered which would otherwise not be considered. No hearing was held on the truth or falsity of that charge.

10. Comparing Thomas Wright, a black representative, to Pryor Gibson, a white representative, presents a prima facie case of a state official acting under color of State Law treating two similarly situated individuals differently based on race. In each instance, the State Official acting under color of State law who has signed these documents is Chairman Rick Glazier.

11. It is difficult to believe that the rulings of the Chair and therefore the ongoing hearing have not both been tainted. This Committee is composed of exactly the same members as the Legislative Ethics Committee minus the Senate members. This Committee is chaired by the Co-Chair of Legislative Ethics Committee. The actions of this Committee clearly are founded on the prior actions of the Legislative Ethics Committee. It is the charge of this Committee to avoid not only impropriety, but the appearance of impropriety so that the actions of this Committee will not be suspect before the citizens of North Carolina. Unfortunately, that is now impossible.

WHEREFORE, Representative Thomas Wright respectfully asks that Chairman Rick Glazier recuse himself as Chair and that the Committee vote to suspend the current hearing and to refer the matter to the Speaker of the House for the purpose of the Speaker appointing a new Committee which is not connected to the Legislative Ethics Committee or to the errors made by its Co-Chair Rick Glazier. Alternatively, this matter should be referred to the Full House for direction on how to proceed.

Respectfully submitted, this the 4<sup>th</sup> day of March, 2008.

  
\_\_\_\_\_  
Douglas S. Harris  
Attorney for Respondent

1698 Natchez Trace  
Greensboro, North Carolina 27455  
Telephone: 336-288-0284

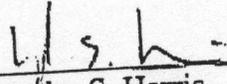
Certificate of Service

This is to certify that I have this day served the foregoing Motion for Chairman to Recuse Himself and for the Committee to Stay this Matter and Refer to the Speaker for Further Action on the House Select Committee to Investigate Alleged Misconduct of Representative Thomas Wright by forwarding same by hand-delivery to the Assistant Attorney Generals representing the General Assembly in this matter as well as to below-listed individuals.

Ms. Denise Weeks  
House Principal Clerk  
NC General Assembly  
State Legislative Building  
Raleigh, NC 27601-1096  
Facsimile: 919-715-2881

Mr. O. Walker Reagan  
Committee Co-Counsel  
300 N. Salisbury Street, Suite 200  
Raleigh, NC 27603  
Facsimile: 919-715-8365

This the 4th day of March, 2008.

  
\_\_\_\_\_  
Douglas S. Harris  
Attorney for Plaintiff

1698 Natchez Trace  
Greensboro, NC 27455  
Telephone: 336-288-0284

# Fern H. Shubert, CPA

North Carolina Senate (Ret)

North Carolina House (Ret)

State Director, National Right to Read Foundation

106 East Main Street  
Marshville, North Carolina 28103  
704-624-2720  
femshubert@alltel.net

January 27, 2007

The Observer Forum  
The Charlotte Observer  
P. O. Box 30308  
Charlotte, NC 28230-0308

Dear Sirs:

According to "Shubert says Gibson violated procedures when he introduced bill" (Jan 27): "Gibson said he regretted not speaking with his colleagues before filing the bill. He said he asked the chairman of the House local government committee to spike it immediately after learning about the opposition."

Gibson now admits he filed a false statement to introduce his bill to postpone the referendum on the Monroe meals tax, but he tries to avoid responsibility by telling a new whopper. If he had really "asked the chairman of the House local government committee to spike it immediately after learning about the opposition," the bill would have been killed at the beginning of June. It would not have been on the House Calendar on June 28th, taken up in the House local government committee, and rolled into a Senate bill in that House committee. Committee chairs do not put bills on the calendar against the wishes of the bill sponsor.

Gibson violated the House rules and filed a false statement so he wouldn't have to defend other lies told about the meals tax when he ran last year. If ethics are important to the leaders of the legislature, what will they do about Representative Gibson?

Sincerely,

*Fern H. Shubert, CPA*

Copy of article attached-

1. Describe the nature of the violation(s) you believe to be unethical. Be as specific as possible:

On May 17, 2006, Representative Gibson signed a local bill certificate for H2726 which he knew to be false. A copy of the signed document is attached.

(The document itself reminded Representative Gibson that the General Assembly rules prohibited the introduction of any bill that did not meet certain requirements. Representative Gibson signed the certification knowing that he had not obtained the approval of the Senator "whose district includes the area to which the bill applies" and that the bill was highly controversial. There could have even been a request for a public hearing since Representative Gibson had made no attempt to secure the concurrence of the other legislators from the affected county, but Speaker Black originally indicated the bill would not be heard since it was not eligible for introduction and when it was heard the contents were stripped and inserted in a different bill.)

Also attached is a copy of an email from Senator Eddie Goodall which makes it clear that Representative Gibson did not have his approval of the bill when he signed the certificate saying "the bill is approved for introduction" and an email from Representative Curtis Blackwood which clearly states "I want to register my objection in writing to hearing HB 2726, Local ETJs/Delay Monroe Vote."

In addition, attached is a copy of a letter from the Chairman of the Union County Commissioners, stating that he is writing on behalf of the Commissioners to "register with you the Board's strong opposition to Section 1 of House Bill 2726 pertaining to the exercise of extraterritorial jurisdiction.

There is no doubt that Representative Gibson knowingly filed a false certificate in order to introduce a bill that was ineligible for consideration under the Rules of the House.

2. Describe that information relating to the violation(s) which you know of your own personal knowledge:

The bill filed addressed two seemingly unrelated subjects. In my opinion, the first part was merely a smoke screen for the second part.

The first part of the bill granted extraterritorial jurisdiction over an area extending one mile from their respective limits to two towns that had never even filed a formal request with the county commissioners for ETJ or held any public hearings to solicit input from the affected property owners. The bill seemed to materialize with no prior notice to anyone; in fact, to date, the towns have not even sent notices to the owners of property affected by the change.

Regardless of the merits of permitting a small group of people to exercise zoning control over property outside the town limits, owned by people who cannot vote in town elections, it is hard to understand why Representative Gibson would want to arbitrarily give the Towns this control without so much as a public hearing or advance notice to the County Commissioners, the affected property owners or the other members of the delegation. Clearly, the grant was controversial, and it is hard to understand why Representative Gibson would willingly offend his fellow legislators and the County Commissioners without knowing the history of the other part of the bill, which I know from personal knowledge.

The other part of the bill permitted the Town of Monroe to delay a referendum on a prepared food tax to 2007. Even since 2001, the Town of Monroe has sought to obtain a tax on prepared foods. Until 2005, they had sought to obtain the tax without a referendum and without any meaningful restrictions on how the funds could be spent.

In fact, when legislation was originally introduced which would permit the tax, there was no restriction on how the funds could be spent. When I asked why, if the funds were for a civic center as the public was being told, there was not even a mention of a civic center, the bill was amended to mention a civic center, but the funds didn't have to be spent on it.

I opposed the tax, but I had an amendment drafted which would permit a referendum, because I was convinced that the overwhelming majority of Monroe residents would vote against the tax. Representative Gibson told me Monroe didn't want a referendum and would never agree to a referendum. I kept my amendment handy for weeks, and I was told that bill set a record for hanging around on the calendar.

One day I noticed Monroe officials in the balcony and Senator Plyler in the back of the Chamber and not surprisingly, the bill was taken up for debate. Representative Gibson was recognized and offered a referendum amendment, which passed. He had not shared his amendment with me, but I quickly spotted the trick and told the House that they had better take a close look at his "weasel-worded amendment" because if the bill passed with his amendment, there would not be a referendum. I made it very

clear that he had tried to trick them, and a quick reading of the amendment proved my point to enough Representatives that the bill, with his amendment, failed.

For several years, Representative Gibson and his allies tried to slide the tax through without permitting a public vote but they were unable to do so. In 2005, there were people running against the incumbents in the Monroe municipal elections who opposed the tax and suddenly all of the officials who wanted the tax were claiming that they had always wanted a referendum, but they wanted it in 2006. To "prove" their long time desire for a referendum, the Town passed a resolution asking for a bill permitting a referendum (copy attached) and the legislature promptly authorized the referendum for 2006. Unfortunately for Representative Gibson, he found himself facing an unexpected and serious opponent in 2006 and he was desperate to postpone the referendum to 2007.

The people of Monroe have been lied to about the proposed prepared meals tax for five years now. Representative Gibson tried to trick the House of Representatives in 2001, and either he was acting contrary to the Town official's instructions in 2001 when he tried to avoid a referendum, or the public was being told some serious falsehoods in the 2005 municipal election.

In any event, while the extraterritorial jurisdiction issue may seem controversial, I believe the meals tax is really the reason for the whole bill, based on the history of Representative Gibson's attempts to impose the tax without a referendum and his clear desire to keep a vote on the tax off the 2006 ballot.



North Carolina General Assembly  
Legislative Ethics Committee

July 24, 2007

Representative Pryor Gibson  
North Carolina House of Representatives  
Room 419A, Legislative Office Building  
Raleigh, NC 27603

Re: Ethics Complaint Against Representative Pryor Gibson by Fern Shubert -  
January 9, 2007 - C-LEC-07-001

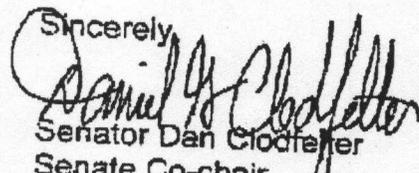
Dear Representative Gibson:

On January 9, 2007, Fern Shubert filed an ethics complaint with the Legislative Ethics Committee (Committee) by delivering copies of the complaint to Senator Dan Clodfelter and Representative Nelson Cole, co-chairs of the Committee for the 2005 General Assembly. A copy of that complaint is attached.

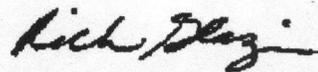
The conduct described in the complaint allegedly occurred in 2006, and in accordance with S.L. 2006-201, the complaint is governed by the law in effect prior to January 1, 2007. Consistent with G.S. 120-103 and the rules of the Committee adopted in accordance with this law, the Committee reviewed the complaint to determine whether the alleged conduct, if true, would be considered unethical, and if so, whether the Committee had jurisdiction under Article 14 of Chapter 120 of the General Statutes to consider the complaint.

After review, the Committee dismissed the complaint against you because the complaint alleged conduct, that even if true, would not constitute an ethics violation, or alleged conduct, that even if true, would not be within the jurisdiction of the Committee. The Committee will take no further action with regards to this complaint.

Sincerely,

  
Senator Dan Clodfelter  
Senate Co-chair

Legislative Ethics Committee



Representative Rick Glazier  
House Co-chair

Cc: Ms. Fern Shubert

Enclosure



Fern H. Shubert

From:  
Sent:  
To:  
Subject:

Torralba, Mike [mtorralba@charlotteobserver.com]  
Monday, August 13, 2007 11:26 AM  
'fernshubert@alltel.net'  
Ethics complaint

Hi Fern,  
Please send the relevant documents to the fax number below.

Mike Torralba  
Reporter  
The Charlotte Observer  
Neighbors of Union County  
132 South Main St.  
Monroe, NC 28112  
(704) 289-6576 Office  
(704) 289-4569 FAX

ATW

It took the ethics committee roughly  
six months to figure out lying is  
unethical - but at least the guideline was clear -  
"knowingly submitting a falsified local bill  
certificate would be a matter of ethics and would  
be within the jurisdiction of the committee."  
"Filing a local bill certification knowing the  
certification is false is unethical."

So why did the "Ethics Committee" try to hide  
Hibson's unethical behavior? There is no doubt  
he filed a false certification - he admitted he did.  
Apparently the job of the committee is to provide  
a smokescreen for insiders to use to hide  
unethical behavior - or at least that's what the letter to Hibson  
looks like.



North Carolina General Assembly  
Legislative Ethics Committee

December 13, 2007

Representative Thomas Wright  
322 S. 17<sup>th</sup> Street  
Wilmington, NC 28401

RE: In the Matter of Representative Thomas Wright  
C-LEC-07-002

Dear Representative Wright:

You were notified on June 8, 2007 that the Legislative Ethics Committee was conducting an ethics inquiry and investigation into your conduct during your tenure as a member of the House of Representatives. After considering the findings of the preliminary investigation, the Committee has voted to consider an initial specific charge against you. The notice of charge is enclosed with this letter.

In accordance with G.S. 120-103.1 and the Rules of the Legislative Ethics Committee, you have an opportunity to file a response to the charge with the Committee within a time specified by the Committee. The Committee has voted to allow you to file your response on or before December 28, 2007. You may file your response with the Committee by sending the response to O. Walker Reagan, Committee Co-Counsel, Legislative Ethics Committee, 300 N. Salisbury Street, Suite 200, Raleigh, NC 27603. Please also send copies of your response to the Committee cochairs, Senator Dan Clodfelter and me.

Depending on your response, it is anticipated that the Committee will schedule a hearing on this charge either in late January or early February, 2008. You will be notified at least 30 days in advance of the scheduled hearing date. Your rights to present evidence and examine witnesses at the hearing are set forth in G.S. 120-103.1 and the Committee Rules.

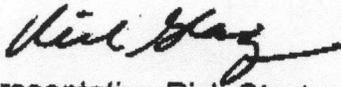
The investigation into your conduct by the Committee is continuing and the Committee will be considering additional evidence that may lead to additional charges. You will be sent notice of any additional charges the Committee adopts.



Enclosed is a copy of Part C of the Rules of the Legislative Ethics Committee, "Outline of Procedure for Investigation of Complaints Alleging Unethical Activity." These rules will apply to this proceeding.

Bill Hart and Alec Peters, attorneys with the North Carolina Department of Justice, have been assigned as Investigative Counsel to the Committee and will be responsible for the duties set forth in Rules C.4.(g) and C.19.(c). Walker Reagan, Brad Krehely, Heather Fennell and Kory Goldsmith are advising the Committee as legislative staff on procedural and administrative matters under the Rules. You should feel free to contact any of these persons or me with any questions you might have with regards to these proceedings.

Sincerely yours,



Representative Rick Glazier  
Co-chair, Legislative Ethics Committee

Cc: Speaker Joe Hackney, Complainant

Enclosures: Notice of Charge  
Investigatory Rules of the Legislative Ethics Committee

**NOTICE OF CHARGE OF UNETHICAL CONDUCT  
BY REPRESENTATIVE THOMAS E. WRIGHT**

The Legislative Ethics Committee, having convened for hearing on the report of preliminary investigative findings on questions of possible criminal and/or unethical conduct, hereby finds that there is probable cause to believe that Representative Thomas E. Wright, a member of the House of Representatives, has engaged in unethical conduct as a member of the House of Representatives during his tenure as a member of the House of Representatives, by committing the acts specified in Count 1 of this Notice. The Committee, by unanimous vote of the members present, hereby charges that the conduct specified in Count 1 should be considered against Representative Thomas Wright:

**COUNT 1**

Between on or about March 13, 2002 and on or about March 15, 2002, while a member of the North Carolina House of Representatives, Thomas E. Wright did orally and in writing improperly and unethically solicit Torlen L. Wade, Acting Director of the North Carolina Department of Health and Human Services Office of Research, Demonstrations, and Rural Health Development, to write and mail to him a fraudulent letter stating that such Office was endorsing the Community's Health Foundation's project to convert a building located on the 900 block of 4th Street in Wilmington, North Carolina into Community's Health Foundation offices, New Hanover Community Health Center offices, and a History Museum and committing \$150,000.00 in funding toward the completion of that project. At the time of the solicitation, Thomas E. Wright was the Chairman of the Community's Health Foundation, Inc., located at 322 South 17th Street in Wilmington, North Carolina. Thomas E. Wright confirmed his earlier oral solicitation by having his legislative assistant type the necessary details needed in the commitment letter in an e-mail that was sent to Torlen L. Wade by use of his State e-mail account and on a State computer, both of which were authorized for him based on his position as a member of the North Carolina House of Representatives. At the time of the oral solicitation, the typing and sending of the e-mail, and the typing and sending of the Torlen L. Wade letter, both Thomas E. Wright and Torlen L. Wade knew that the Office of Rural Health would not make such a grant and that Thomas E. Wright would use the letter in seeking to fraudulently obtain funding for the Community's Health Foundation from other sources such as financial institutions and other organizations that make grants and that would believe and rely on the false representations in Torlen L. Wade's letter.

Adopted December 11, 2007.



Representative Rick Glazier, Cochair  
Legislative Ethics Committee



Office of Speaker Joe Hackney  
North Carolina House of Representatives  
Raleigh, North Carolina 27601-1096

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HOUSE SELECT COMMITTEE TO INVESTIGATE ALLEGED  
MISCONDUCT AND OTHER MATTERS INCLUDED IN  
INDICTMENTS AGAINST REPRESENTATIVE THOMAS E.  
WRIGHT

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TO THE HONORABLE MEMBERS OF THE  
NORTH CAROLINA HOUSE OF REPRESENTATIVES

Whereas, the State Board of Elections conducted a hearing on May 15, 2007, to consider allegations and evidence of alleged violations by Representative Thomas E. Wright of campaign finance regulations and other possible criminal wrongdoing; and

Whereas, after that hearing the State Board of Elections referred the matter to the Wake County District Attorney to consider criminal charges against Representative Wright; and

Whereas, on May 21, 2007, the Speaker requested the Legislative Ethics Committee investigate the alleged violation of the Legislative Ethics Act or the criminal law, or both, by Representative Wright; and

Whereas, on December 10, 2007, the Wake County Grand Jury indicted Representative Wright on six felony charges: five of obtaining property by false pretenses and one of obstruction of justice; and

Whereas, on December 12, 2007, the Legislative Ethics Committee made to the House of Representatives and to the Speaker of the House of Representatives the following initial report of that Committee's findings in its ongoing investigation:

*"The Legislative Ethics Committee has considered the indictments rendered by the grand jury sitting in Wake County in the matter of State of North Carolina v. Thomas E. Wright, contained in criminal files 07 CRS 84372, 84373, 84374, 84375, 84376 and 84377, charging felonies of obtaining property by false pretenses and a felony of obstruction of justice with respect to campaign finance reports.*

*Having considered the evidence presently available to it and having assumed that evidence to be true, the Committee has concluded that under the Legislative Ethics Act as it existed at the time the matters in these indictments are alleged to have occurred, the Committee's jurisdiction under the then existing law would not reach the matters alleged in the indictments.*

*However, the Committee finds that, if true, the acts alleged in the indictments are unethical and warrant such action as the House of Representatives may determine.*

*The Committee refers the specific matters contained in Wake County criminal files 07 CRS 84372, 84373, 84374, 84375, 84376 and 84377 to the North Carolina House of Representatives*

*for such action as the House deems appropriate under Article II, § 20, of the North Carolina Constitution. The Committee notes that the jurisdiction of the House of Representatives in this matter is broader than that which is statutorily granted to the Committee under the former Legislative Ethics Act."; and*

Whereas, the Legislative Ethics Committee continues to have jurisdiction over matters related to its powers under Article 14 of Chapter 120 and the conduct of Representative Wright and may make further reports to the House of Representatives and the Speaker of the House of Representatives; and

Whereas, Article II, Section 20, of the North Carolina Constitution requires each house of the General Assembly to be the judge of the qualifications of its members; and

Whereas, Article VI, Section 8, of the North Carolina Constitution provides that a member of the General Assembly is disqualified from his or her office if adjudged guilty of treason, any other felony, or corruption or malpractice in any office; and

Whereas, the House of Representatives possesses the inherent power of a legislative body to discipline its members for violations of its rules, for unlawful behavior, for unethical conduct, for corruption or malpractice in office, for violations of the oath of office, and for offenses injurious to the House; and

Whereas, it is now necessary for the House of Representatives to investigate the matters alleged in the indictments against Representative Wright and other allegations of misconduct in order to determine their truth and, if so, to determine his qualifications to continue to hold office as a member of the House of Representatives as required by the Constitution; and

Whereas, it is now necessary for the House of Representatives to investigate the matters alleged in the indictments against Representative Wright and other allegations of misconduct in order to determine their truth and, if so, to determine whether his conduct violates the rules of the House, violates his oath of office, is unlawful or unethical, is corrupt or constitutes malpractice in office, is abuse of office, or is injurious to the House, and whether within the inherent powers to discipline its members the House of Representatives shall impose any sanctions against Representative Wright;

Now, therefore:

**Section 1. The House Select Committee to Investigate Alleged Misconduct and Other Matters Included in Indictments Against Representative Thomas E. Wright** is established by the Speaker as a select committee of the House pursuant to G.S. 120-19.6(a) and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly.

**Section 2.** The Select Committee consists of six House members. The individuals listed below are appointed as members of the Select Committee. Members serve at the pleasure of the Speaker of the House of Representatives.

Representative Rick Glazier,  
Chair

Representative Paul Stam, Vice Chair

Representative Marvin W. Lucas

Representative William C. McGee  
Representative Edith D. Warren  
Representative Laura I. Wiley

**Section 3.** The Select Committee shall investigate the matters reflected in the attached indictments against Representative Thomas E. Wright and other allegations of possible unethical or unlawful conduct that are outside the jurisdiction of the Legislative Ethics Committee applying the substantive law in effect before January 1, 2007. The Select Committee shall also investigate any additional matters referred to it by the Speaker upon a report of the Legislative Ethics Committee.

**Section 4.** The Select Committee shall conduct a preliminary investigation to determine whether there is probable cause that Representative Wright has committed unethical or unlawful conduct. The Select Committee shall notify Representative Wright of its determination and any charges against him. If the Select Committee determines there is probable cause to proceed, it shall conduct an evidentiary hearing to determine whether Representative Wright's conduct was unethical or unlawful and constitutes grounds for sanctions by the House of Representatives. If the Select Committee finds that the conduct was not unethical or unlawful or that no sanctions are warranted, the Select Committee shall report this to the House of Representatives and to Representative Wright. If the Select Committee determines that Representative Wright's conduct was unethical or unlawful and that sanctions should arise, the Select Committee shall report its Findings to the House of Representatives and to Representative Wright. The report shall also include recommended legislation for appropriate action, which may include reprimand, censure, or expulsion.

**Section 5.** The Select Committee shall promptly adopt rules of procedure, a copy of which shall be delivered to Representative Wright. To the extent practical, the Select Committee shall conduct its work in concert with the work of the Legislative Ethics Committee.

**Section 6.** Representative Wright has the right to be present, present evidence, cross-examine witnesses, and to be represented by legal counsel at any evidentiary hearing of the Select Committee.

**Section 7.** The Select Committee may meet during the interim period or during sessions upon the call of its chair.

**Section 8.** The Select Committee is vested with the authority contained in Article 5A of Chapter 120 of the General Statutes.

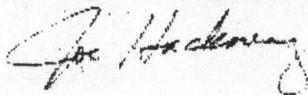
**Section 9.** The Legislative Services Officer shall assign professional and clerical staff to assist the Select Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Select Committee.

Section 10. Members of the Select Committee shall receive per diem, subsistence, and travel allowance at the rate established in G.S. 120-3.1.

Section 11. The expenses of the Select Committee are considered expenses incurred for the operation of the House of Representatives and shall be paid pursuant to G.S. 120-35 from funds available to the House of Representatives for its operations. Individual expenses of \$5,000 or less, including per diem, travel, and subsistence expenses of members of the Select Committee, and clerical expenses shall be paid upon the authorization of the chair of the Select Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the Speaker of the House of Representatives. The Select Committee may arrange for or contract for professional, clerical, or consultant services, as approved by the Speaker of the House of Representatives.

Section 12. The Select Committee shall continue until dissolved by the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Select Committee at any time.

Effective this \_\_\_ of December, 2007.



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Joe Hackney  
Speaker

12.13.07 v.2



**North Carolina General Assembly**  
**Legislative Ethics Committee**

**IN RE: COMPLAINT AGAINST  
REPRESENTATIVE PRYOR GIBSON  
BY FERN SHUBERT – JANUARY 9, 2007.  
FILE NUMBER - C-LEC-07-001**

**COMPLAINT DISPOSITION**

The Legislative Ethics Committee (Committee) met to consider the complaint filed by Fern Shubert on January 9, 2007 alleging unethical conduct by Representative Pryor Gibson. For the reasons set forth below, the Committee dismisses the complaint either for failure to state an allegation which rises to an ethical violation, or for lack of jurisdiction by the Committee on the matters alleged.

**FINDINGS**

1. Fern Shubert filed a complaint with the Committee on January 9, 2007 by delivery to Senator Dan Clodfelter and Representative Nelson Cole, Cochairs of the 2005 Committee. The complaint appears to be a properly executed complaint, alleging the nature of ethical violations and the general time of the occurrence of the unethical acts. The complaint is verified and sworn subject to prosecution for perjury.
2. The Complainant alleges that Representative Gibson acted unethically by filing House Bill 2726 on May 17, 2006. Specifically, the Complainant alleges that:
  - A. Representative Gibson filed House Bill 2726 for his own personal benefit. The allegation of a conflict of interest was that Representative Gibson introduced the bill to move the date of the public referendum on the meals tax to a year in which he was not up for reelection, thereby possibly improving his chances of reelection.
  - B. In conjunction with filing the bill, Representative Gibson falsified the local bill certificate for House Bill 2726 in that he said the bill was not controversial when it was, and said that each member of the local delegation approved the introduction of the bill when they did not.



3. The law defining the jurisdiction and investigative procedures of the Committee changed effective January 1, 2007. S.L. 2006-201, which changed the law in this area, provided that the new law would apply to offenses committed on or after January 1, 2007, and prosecutions for offenses or ethics violations committed before January 1, 2007 were not abated or affected by the new law. The statutes that were in effect prior to the effective date of the new law would remain applicable to prosecutions of actions arising on or before January 1, 2007. All of the allegations against Representative Gibson arise from conduct committed before January 1, 2007.
4. Representative Gibson introduced House Bill 2726 on May 17, 2006. The bill had two provisions:
  1. Section 1 would have allowed the Towns of Wingate and Marshville to exercise extraterritorial jurisdiction within one mile of their municipal borders without a vote of the Board of Commissioners of Union County.
  2. Section 2 would have allowed the Town of Monroe to hold a referendum on the prepared food and beverage tax authorized under S.L. 2005-261 in either 2006 or 2007. S.L. 2005-261 required the referendum to be held in 2006.
5. Representative Gibson represented the western part of Union County, which encompasses the entirety of the towns of Wingate and Marshall, and the western half of the City of Monroe. Representative Blackwood represented the eastern part of Union County, which encompasses the eastern half of the City of Monroe. Senator Goodall represented the entirety of Union County and is the only Senator to represent Union County.
6. The Complaint alleges that at the time the bill was filed, the other members of the Union County delegation did not approve the filing. Representative Blackwood wrote an email to the House Principal Clerk, on May 30, 2006 stating his opposition to the bill. Senator Goodall wrote an email to the House Principal Clerk, on June 5, 2006 stating his opposition to the bill. Roger Lane, Chairman of the Union County Board of Commissioners, wrote a letter to Representative Blackwood on June 20, 2006 stating the Union County Board of Commissioners opposed Section 1 of the bill.
7. Senate Joint Resolution 1184 of the 2005 Session, the adjournment resolution for the 2005 Session, provides in part:

"During the regular session that reconvenes on Tuesday, May 9, 2006, only the following matters may be considered:

...

  - (4) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Wednesday, May 17, 2006,

is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Wednesday, May 24, 2006, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

8. The House Principal Clerk attached a "Local Bill Certificate" to House Bill 2726, which Representative Gibson signed. The certificate reads in part:

"The undersigned, principal sponsor of the attached local bill, certifies that:

- (a) no public hearing will be required or asked for by a member on the bill;
- (b) the bill is noncontroversial;
- (c) the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

### **CONCLUSIONS OF LAW**

1. The law in effect prior to January 1, 2007 would apply to this matter.
2. A conflict of interest under G.S. 120-88 is present when a legislator has an economic interest in the legislation. It would not be a conflict of interest under G.S. 120-88 for a legislator to act on legislation affecting issues on a ballot merely because the legislator is a candidate on the ballot. Acting on legislation that might result in a possible political gain, but no financial gain, to a legislator does not present a conflict of interest for the legislator.
3. The local bill certificate signed by Representative Gibson was required by a joint resolution of both the House and the Senate. The rule concerning the introduction of local bills in the Adjournment Resolution is a rule of procedure and not a rule of ethics. The Committee lacks jurisdiction to consider whether the violation of a rule of procedure would rise to an ethical violation.
4. G.S. 120-103(a) directs the Committee, on its own motion or in response to a signed and sworn complaint filed by an individual, to inquire into any alleged violation of the provisions of the Legislative Ethics Act (primarily the legislative bribery statute (120-86), the use of legislative position to affect

personnel actions (120-86.1), the disclosure of confidential information statute (120-87), the conflict on interest statute (120-88)); the Statement of Economic Interest (Part 2 of Article 14 of Chapter 120); the rules of ethics adopted by the House and Senate (of which there are none); and the criminal law by a legislator while acting in the legislator's official capacity as a participant in the lawmaking process.

5. The jurisdiction of the Committee does not include the application and enforcement of rules of procedure of the houses. Issues arising from the application of rules of procedure are within the exclusive jurisdiction of the house of which the legislator is a member.
6. An alleged violation of a rule of procedure is subject to a point of order which is subject to appeal to the House or Senate, which is debatable and requires a vote of the chamber.

#### **COMMITTEE ACTION**

1. Allegation #1 is dismissed as alleging conduct that, even if true, would not constitute an ethics violation.
2. Allegation #2 is dismissed as not being within the jurisdiction of the Committee.
3. The complaint against Representative Pryor Gibson filed by Fern Shubert is dismissed with no further action by the Committee.

Adopted by the Committee, this the 17<sup>th</sup> day of July, 2007.

  
\_\_\_\_\_  
Senator Dan Clodfelter

  
\_\_\_\_\_  
Representative Rick Glazier

Co-Chairs  
Legislative Ethics Committee

**ORAL ARGUMENTS ON MOTION TO RECUSE  
ARE CONTAINED IN THE HEARING TRANSCRIPT  
FOR MARCH 4<sup>TH</sup>, 2008, PAGES 2-26.**



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## North Carolina House of Representatives

### House Select Committee to Investigate Alleged Misconduct and Other Matters Included in Indictments Against Representative Thomas E. Wright

REPRESENTATIVE RICK GLAZIER, CHAIR  
REPRESENTATIVE PAUL STAM, VICE-CHAIR  
REPRESENTATIVE MARVIN LUCAS

REPRESENTATIVE BILL MCGEE  
REPRESENTATIVE EDITH WARREN  
REPRESENTATIVE LAURA WILEY

March 5, 2008

#### Ruling of the Chair on Representative Wright's Motion

Representative Wright, by and through his legal counsel, filed and made an oral motion with the Committee on March 3, 2008 for the Chair to recuse himself and for the Committee to stay this matter and refer the matter to the Speaker of the House of Representatives for further action. Counsel for Representative Wright was asked to and did file a written motion with the Committee on March 4, 2008. Counsel for Representative Wright and Outside Legal Counsel for the Committee (Committee Counsel) made oral arguments on the motions that were heard by the Chair and the Committee on March 4, 2008. After reviewing the written motion and hearing oral arguments, the Chair has ruled on the motion. This document sets out the Chair's findings, conclusions of law, and disposition on this motion.

#### **MOTION FOR CHAIR TO RECUSE HIMSELF AND FOR THE COMMITTEE TO STAY THIS MATTER AND REFER TO THE SPEAKER FOR FURTHER ACTION**

##### Findings

1. This matter is properly before the Chair and the Committee on motion by Representative Wright to have the Chair recuse himself and for the Committee to stay this matter and refer it to the Speaker of the House of Representatives for further action. The motion has been expertly argued by both sides and is ripe for disposition.
2. The issue is whether the prosecution of this action by the Committee against Representative Wright is disparately selective on the basis of race in violation of the equal protection clause of the United States Constitution, and similar North Carolina constitutional provisions, and whether the Chair, or the Committee as a whole, should be recused.
3. Representative Wright argues that he is being treated differently than another Representative, Pryor Gibson, against whom a complaint had been previously filed with the Legislative Ethics Committee.

Representative Wright argues that the complaint against Representative Gibson before the Legislative Ethics Committee was dismissed, but the complaint against Representative Wright before the Legislative Ethics Committee was not dismissed but referred to the House of Representatives. Representative Wright argues that he has been subjected to disparate treatment in this regard, and that the Chair, who was the Co-Chair of the Legislative Ethics Committee and the Chair of this Committee, should recuse himself.

4. Committee Counsel argues that the Chair does need to recuse himself for all the following reasons:
  - a. The Gibson matter is not comparable to this matter.
  - b. Under the law, there is no basis for recusal of the Chair or Committee members.
  - c. There is no evidence that inappropriate decisions have been made and no evidence that racial bias or prejudice exists.
5. The only evidence presented in support of the motion is the evidence with regard to the complaint against Representative Gibson which was considered by the Legislative Ethics Committee.
6. Representative Gibson is Caucasian and Representative Wright is African-American.
7. No evidence has been proffered that any member of the Committee, including the Chair, is racially biased or prejudiced. The record indicates that previously, counsel for Representative Wright conceded that there was no evidence of racial prejudice or bias by any member of the Committee. Since counsel for Representative Wright's admission, there has been no evidence indicating that the Chair or any member of the Committee is racially biased or prejudiced.
8. In the present case, Representative Wright was charged with eight counts alleging conduct of fraud, corruption, and in most counts, a violation of the criminal law.
9. Representative Wright's conduct was found to be questionable after full and fair hearings before the State Board of Elections, which found probable cause to believe that Representative Wright had committed a number of State law violations. The State Board of Elections referred the matter to the Wake County district attorney for review for prosecution. No evidence suggests that any member of the State Board of Elections was racially biased, prejudiced, or in any way unfair or impartial.
10. The Department of Health and Human Services conducted a second investigation against Representative Wright. The results of its investigation were referred to the Wake County district attorney for possible prosecution. No evidence suggests that any member of the Department of Health and Human Services was racially biased, prejudiced, or in any way unfair or impartial.
11. The grand jury of Wake County, made up of diverse citizens of Wake County, found probable cause to believe that Thomas Wright should be charged with six counts of violations of the criminal law. No evidence suggests that any member of the grand jury of Wake County was racially biased, prejudiced, or in any way unfair or impartial.

12. The Legislative Ethics Committee, which is bipartisan, diverse, and consists of Senators and Representatives, found probable as to one count with regard to Representative Wright, and held that it did not have jurisdiction to consider the remaining counts against Representative Wright. It referred those remaining counts to the House of Representatives for action by the Speaker of the House of Representatives. The Speaker then formed this Committee to proceed. The Legislative Ethics Committee's referral indicated that it believed that the alleged conduct, if proven, could constitute probable cause for further counts, which is what this Committee found.
13. This Committee consists of three Democrats and three Republicans and is diverse. It unanimously found probable cause on eight counts of alleged misconduct, seven of which are being considered in this hearing.
14. Based upon Representative Gibson partially waiving his statutory right to confidentiality of the Legislative Ethics Committee proceeding, the Committee has before it the decision of the Legislative Ethics Committee which explains how that determination was made.
15. The complaint against Representative Gibson was before the Legislative Ethics Committee on a complaint from former State Senator Fern Shubert. She filed a complaint with the Legislative Ethics Committee on January 9, 2007, by delivering it to Senator Dan Clodfelter and Representative Nelson Cole, who were co-chairs of the 2005 Legislative Ethics Committee. The complaint made allegations with respect to House Bill 2726 that was filed on May 17, 2006.
16. The complaint alleged that Representative Gibson had filed House Bill 2726 for personal benefit. The allegation was that Representative Gibson acted with a conflict of interest when he introduced the bill to move the date of a public referendum on the meals tax to a year in which he was not up for re-election. The complaint also alleged that in conjunction with the filing of the bill, Representative Gibson had falsified a local bill certificate for House Bill 2726 by representing that the bill was not controversial when, in fact, it was controversial. Finally, the complaint alleged that each member of the local legislative delegation had not approved the introduction of the bill, even though the certification indicated that they had approved.
17. With regards to the complaint against Representative Gibson, the law defining jurisdiction and investigative procedures of Legislative Ethics Committee changed effective January 1, 2007. S.L. 2006-201, which changed the law in this area, provided that the new law would apply to offenses committed on or after January 1, 2007, and prosecutions for offenses or ethics violations committed before January 1, 2007 were not abated or affected by the new law. The statutes that were in effect prior to the effective date of the new law would remain applicable to prosecutions arising on or before January 1, 2007. All of the allegations against Representative Gibson arose from conduct committed before January 1, 2007.
18. Representative Gibson introduced House Bill 2726 on May 17, 2006. The bill had two provisions. Section 1 of the bill would have allowed the Towns of Wingate and Marshville to exercise extraterritorial jurisdiction within one

- mile of their municipal borders without a vote of the Board of Commissioners of Union County. Section 2 of the bill would have allowed the Town of Monroe to hold a referendum on the prepared food and beverage tax authorized under S.L. 2005-261 in either 2006 or 2007. S.L. 2005-261 required the referendum to be in 2006.
19. Representative Gibson represented the western part of Union County, which encompassed the towns of Wingate and Marshville and the western half of Monroe. Representative Curtis Blackwood, represented the eastern part of Union County, which encompassed the eastern half of Monroe. Senator Edward Goodall represented the entirety of Union County and was the only senator to represent Union County.
  20. The complaint against Representative Gibson alleged that at the time the bill was filed, the other members of the Union County delegation did not approve the filing. Representative Blackwood wrote an e-mail to the House Principal Clerk on May 30, 2006, stating his opposition to the bill. Subsequently, Senator Goodall also stated his opposition to the bill.
  21. Senate Joint Resolution 1184 of the 2005 session, the Adjournment Resolution for the 2005 Session, stated in part that "[a]ny local bill that had been submitted to Bill Drafting must be accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, that the bill is not controversial, and that the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."
  22. The House Principal Clerk attached a local bill certificate to House Bill 2726 which Representative Gibson signed.
  23. The Legislative Ethics Committee concluded all of the following:
    - a. The law in effect prior to January 1, 2007, would apply to the matter.
    - b. A conflict of interest under G.S. 120-88 is present when a legislator has an economic interest in the legislation. It would not be a conflict of interest, as then defined under G.S. 120-88, for a legislator to act on legislation affecting issues on a ballot merely because the legislator is a candidate on the ballot. Acting on legislation that might result in possible political gain but no financial gain to a legislator did not present a conflict of interest under law for the legislator.
    - c. The local bill certificate signed by Representative Gibson was required by a joint resolution of both the House and Senate. The rule concerning the introduction of local bills in the Adjournment Resolution was a rule of procedure and not a rule of ethics. The Committee lacked jurisdiction to consider whether a violation of a procedural rule would arise to an ethical violation under the old law.
  24. G.S. 120-103(a) directs the Legislative Ethics Committee, on its own motion or in response to a sworn complaint, to inquire into any alleged violation of the provisions of the Legislative Ethics Act, which includes the legislative bribery statutes, the use of the legislative position to affect personnel actions, disclosure of confidential information, conflicts of interest, statements of economic interest violations, the rules of ethics

- adopted by the House and Senate, or violations of the criminal law by a legislator while acting as a participant in the lawmaking process.
25. The Legislative Ethics Committee found that its jurisdiction did not include application and enforcement of rules of procedure in each individual house. Issues instead arising from the application of rules of procedure are within the exclusive jurisdiction of the house of which the legislator is a member, and an alleged violation of a rule or procedure is subject to a point of order, which is subject to appeal in either the House or the Senate, and is an issue which is debatable and requires a vote of the chamber. The Legislative Ethics Committee, by a unanimous vote of all present and voting, which included Senators and Representatives, Republicans and Democrats, black and white, voted to dismiss the first allegation as alleging conduct that, even if true, would not constitute an ethics violation. It dismissed the second allegation as not being within the jurisdiction of the Committee. Finally, the complaint against Representative Gibson was dismissed with no further action by the Committee.
  26. Representative Wright has not produced a scintilla of evidence indicating pretext, racial bias, or racial discrimination from any member of this Committee, from any member of the House of Representatives, or from the House leadership in pursuing this investigation.

#### Conclusions of Law

1. In a disparate-treatment case, the movant must demonstrate that he or she is the victim of intentional and often covert discrimination. That is, that the movant is being treated less favorably than others because of race or, in other cases, color, religion, sex, or national origin.
2. In a disparate-treatment case, proof of discriminatory intent is critical, and the ultimate factual inquiry in this type of case is whether the defendant or, in the present matter, whether the House of Representatives, or this Committee, intentionally discriminated against Representative Wright. Representative Wright maintains the burden of proof from which any fact-finder can infer that if the conduct remains unexplained, then it is more likely than not the action was based on discriminatory illegal activity. To establish discrimination on the basis of disparate treatment, it must be shown that the alleged discriminating official had a racially discriminatory animus against Representative Wright and that the animus manifested itself in the challenged action.
3. The analytical framework governing disparate treatment has been set forth by the United States Supreme Court in the case of McDonnell Douglas Corporation v. Green, 411 U.S. 792, as well as the cases that succeeded it including Furnco Const. Corp. v. Waters, 438 U.S. 567, Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, and U.S. Postal Service Bd. of Governors v. Aikens, 453 U.S. 902.
4. These cases suggest several ways that a plaintiff alleging discrimination may show and a court, or in this case a Committee, may find liability for disparate treatment. First, Representative Wright could show discriminatory intent through direct evidence of discrimination by

- introducing invidious statements of any one of the Committee members, the Chair, or a member of the House of Representatives. Second, since discriminatory intent is seldom capable of proof by direct evidence, indirect or circumstantial evidence can also be used to prove state of mind. The second method of establishing the prima facie case is through indirect evidence whose cumulative probative force, apart from the operation of any presumption, shows that as a reasonable probability, but for, in this case, Representative Wright's race, he would not have suffered an adverse action. The Supreme Court has also provided explicit guidance for the order of proof in that circumstance.
5. The plaintiff, and in the present case Representative Wright, has the burden of proving by a preponderance of the evidence a prima facie case of discrimination. If he succeeds in proving the prima facie case, the burden shifts to the Committee and Committee Counsel to articulate some legitimate, nondiscriminatory reason for the Committee's action. If Committee Counsel met that burden, then the ultimate burden would be on Representative Wright to prove by a preponderance of the evidence that the legitimate reasons offered were pretextual.
  6. The burden of going forward and establishing a prima facie case on behalf of Representative Wright is not a heavy one. He may satisfy that burden by raising an inference that the Committee acted with discriminatory intent and that adverse action occurred under conditions which, more likely than not, were based on impermissible racial considerations. Various circumstances can give rise to this inference of discrimination, including evidence of irregular or suspect procedures or evidence of a general pattern of racial discrimination within the decision-making process of the Committee. In addition, an inference of discrimination adequate to create prima facie case of disparate treatment can be shown by meaningful statistical evidence or by showing that decisions that were made by the Committee depended largely on excessively subjective factors. Most frequently, the basis is to show that Representative Wright is a member of the protected class, that he was treated differently because of his race, and that someone of a different race in a same category was treated in a different manner.
  7. As a matter of law, the present matter against Representative Wright is clearly distinguishable from Representative Gibson's matter before the Legislative Ethics Committee. The Gibson matter involved a rule-making authority issue, while the matter against Representative Wright involves allegations of criminal misconduct, fraud, failure to report campaign contributions, and corruption in office. The Gibson matter involved one incident, in one legislative session, regarding one House bill. The Wright matter contains allegations of hundreds of campaign violations that spans twenty-two reporting periods and seven years. The Gibson matter involved an interpretation of an ambiguous requirement regarding what is non-controversial. Following its action in the Gibson matter, the Legislative Ethics Committee issued a Principal and Guideline, which was circulated to all members of the House and Senate, to clarify what is meant by "noncontroversial" and what the requirements are for all House and Senate members to respond. In the Wright matter, campaign-

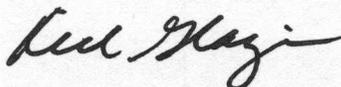
contribution reporting requirements are well-established. Further, the laws dealing with fraud and corruption have been in the civil law since the common law, and there is no ambiguity about their requirements. Therefore, the Gibson matter and the Wright matter are clearly distinguishable. Even a cursory review of the Gibson complaint would have revealed an utter lack of comparability.

8. Representative Wright has not met his prima facie case of showing disparate treatment. McDonnell Douglas Corporation v. Green, 411 U.S. 792.
9. Assuming *arguendo* that Representative Wright met his prima facie showing, the allegations are based on a patently legitimate, nondiscriminatory basis. There were probable-cause findings by three prior investigating groups, the State Board of Elections, the Department of Health and Human Services, and the Wake County grand jury. This further distinguishes the Wright matter from the Gibson matter.
10. No evidence of pretext has been produced against any member of this Committee, against the House, or against the House leadership in pursuing this investigation.
11. The law regarding recusal requires some showing that the presiding officer or the Committee has made or relied on evidence outside of the proceedings or that the officer or Committee was so unfair and impartial that their judgment is thus skewed and unable to give a fair hearing to the particular person involved. No such showing has been made in this case. State v. Fie, 320 N.C. 626 (1987), State v. Paulski, 417 S.E.2d 515 (1992), Love v. Pressley, 341 N.C. App. 503 (1977), *disc. rev. denied*, 294 N.C. 441 (1978).

#### Disposition

The motion seeking recusal of the Chair and for the Committee to stay this matter and refer it to the Speaker for further action is **DENIED**.

Issued this the 11<sup>th</sup> day of March, 2008.



Representative Rick Glazier, Chair  
House Select Committee to Investigate Alleged Misconduct and Other Matters  
Included in Indictments against Representative Thomas E. Wright

#### **CHAIR'S ADDITIONAL COMMENTS**

1. Racism and all its collateral effects is a doctrine abhorrent to any modern, civilized society. And at its core, it is an act of violence and a denial of another's right to equal dignity. Goodman v. Lukens Steel Co., 107 S.Ct.

- 2617 (1987) (Brennan, J., concurring in part, dissenting in part). In the not very distant past racism was openly acknowledged as an official policy of the United States and North Carolina governments, and laws designed to ensure the inferiority of black citizens remained on the books until well into the last century. R. Kluger, Simple Justice 84 (1977); Johnson v. Halifax County, 594 F.Supp. 161, (E.D.N.C. 1984); B.D. Adams, The Survival of Domination: Inferiorization and Everyday Life, 21-24 (1978).
2. The policy of both governments has changed. And notwithstanding that fact, significant effects and results of previous policies still linger. Prior state-condoned racism encouraged similar attitudes among our citizens which have persisted long after state policy has been reversed. Snell v. Suffolk County, 611 F.Supp. 521, (E.D.N.Y. 1985). Many claims of discrimination today deal with systemic, subtle, and stereotypical practices which developed when overt discrimination was lawful and remained embedded in basic institutional structures. Belton, Burdens of Pleading and Proof in Discrimination Cases: Toward a Theory of Procedural Justice, 34 Vand.L.Rev. 1205 (1981).
  3. Invidious discrimination in the form of racial prejudice is the result of subjective, irrational perceptions which drain individuals of their dignity because of their perceived equivalence as members of a racial group and the misperception that lies at the heart of prejudice, and the animus formed of that ignorance shows malice and hatred wherever it operates without restriction. Shaare Tefila Congregation v. Cobb, 785 F. 2d 523 (4<sup>th</sup> Cir. 1986) (Wilkinson, J. dissenting).
  4. Notwithstanding this, this nation can point with some pride to the remarkable progress made in the last decades in overcoming the effects of past discrimination, and some of that improvement is directly attributable to the anti-discrimination laws passed by this legislature and Congress, but more so from the educative institutions, substantially more powerful than the courts or the political branches of government, that is, schools and churches and synagogues of this nation, as well as enlightened public leaders representing all aspects of society. And with notable exceptions, widespread segregation in the nation's academic institutions, public facilities, in the legislature, and in places of employment has ended. Racial discrimination at the ballot box and in the halls of justice is not tolerated. And equal academic, equal employment opportunities, and this year, finally, in many respects, equal political opportunity, has become the rule rather than the exception. Harris v. Marsh, 679 F.Supp 1204 (E.D.N.C. 1987).
  5. Race remains one of the most divisive problems in our society, despite all of that. And thus, whatever prejudice continues to manifest itself in society at large, we have all in the legislature and in Congress flatly ruled it will not be allowed with prejudice to operate, whether blatant or subtle, practiced by black or white, invoked by those wearing blue or white collars or wearing an officer's uniform or a gray flannel suit.
  6. Having said that, I have been a lawyer as a defense lawyer and a civil-rights lawyer for many years, and I think I understand fairly well the issues of discrimination. I am a minority member of a religion and have been discriminated against in that capacity a number of times in my life, and I

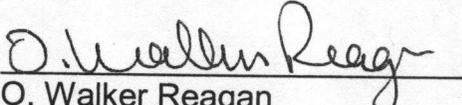
understand the pain that goes with it. And thus it is my view that it is up to all of us in public office to fight wherever bigotry exists, wherever hatred exists, and wherever intolerance exists by confronting that and educating. And I find acts of racism abhorrent and an utter denial of a person's right to equal protection and equal dignity.

7. But I find equally abhorrent racism labels tossed out capriciously, and discrimination allegations charged against people where no good-faith basis exists in law and fact to do so. An individual may hold the keys to the litigation door, but it does not imply that he or she may enter with disregard for their actions or disdain for the rights of everyone else.
8. Charges of racism, if proved, carry an enormously stigmatizing effect, and they should only be leveled after careful investigation, thoughtful deliberation, and always with a reasonable basis in law and in fact.
9. The filing of this motion was patently without a good-faith basis in law and fact and is beneath the dignity of those who raise it. The motion should be denied as frivolous, groundless, and meritless

## CERTIFICATE OF SERVICE

The Attorney whose signature appears below certifies that a copy of the attached Ruling of the Chair on Representative Wright's Motion was duly served upon Representative Thomas E. Wright, and his attorneys, Irving Joyner and Douglas Harris, by depositing a copy of same in the United States mail, first class postage prepaid and addressed to Representative Thomas E. Wright, 322 S. 17<sup>th</sup> Street, Wilmington, NC 28401, Irving Joyner, Attorney at Law, P.O. Box 374, Cary, NC 27512-0374, and Douglas Harris, Attorney at Law, 1698 Natchez Trace, Greensboro, NC 27455.

This the 12<sup>th</sup> day of March, 2008.

  
O. Walker Reagan  
Committee Co-counsel  
300 N. Salisbury Street, Suite 200  
Raleigh, NC 27603