

N.C. ADVOCATES FOR JUSTICE

DATE: Dec. 15, 2009

Governor's conduct inconsistent with oath of office

"I, Beverly Eaves Perdue , do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God."

**Raleigh, North Carolina
Jan. 17, 2009**

RALEIGH — Gov. Beverly Perdue swore that she would support the Constitutions of the United States and North Carolina and that she would be faithful and bear true allegiance to the State and its constitutional powers and authorities. Those constitutional powers and authorities include the Judiciary – an independent branch of government.

The Governor's recent pronouncements about the case of State v. Bowden and the related civil cases of Faye Brown and Alford Jones are inconsistent with that oath.

In Bowden, the North Carolina Court of Appeals and Supreme Court held that a life sentence entered between 1974 and 1978 was defined as a term of 80 years for all purposes and instructed the trial courts to determine the sentence reduction credits and compute a release date. In the Brown and Jones cases, a Superior Court Judge after briefing, evidence and argument ruled that Brown and Jones were entitled to be released from prison.

The Governor's initial response to the Bowden case was that the decision was "unacceptable" and that she was considering defying the courts. She said: "letting them out is not going to be the answer that I am going to be able to live with. In other words, if I go to jail, are you going to visit me? Somebody said they were going to bring me cookies." A week later, she put the matter in a more professional posture by saying that her attorneys would raise legal issues in the courts.

The North Carolina Advocates for Justice then called on our state officials to respect the Rule of Law and the constitution by following the law as it is, not as they wish it to be.

Article I, Section 21 of the Constitution of North Carolina guarantees every person restrained of liberty the right to a remedy if that restraint is unlawful. That is the privilege

of the ancient writ of habeas corpus. Faye Brown and Alford Jones filed writs of habeas corpus and a Judge has issued his ruling that the law is clear and Brown and Jones should be released.

That ruling was met by the Governor saying that she was “furious” and “disgusted” about the decision and that it was “wrong” and “this is not how the government and the courts are supposed to work.”

The North Carolina Advocates for Justice responds, that yes, Governor Perdue, this is precisely how the government and courts are supposed to work, except that our state officials are supposed to follow their oaths to be faithful and bear allegiance to the other constitutional powers and authorities, including the courts. Separation of powers and the independence of the judiciary are hallmarks of our freedom and our state officials must respect those principles.

The cost of failing to do so will undermine the Rule of Law, the cornerstone of our democracy. A judiciary that can ignore the law or choose which laws to follow is not one that can guarantee our freedoms.

David Pishko, president of NCAJ, said: “It is entirely unacceptable for Governor Perdue to attempt to pressure trial judges and appellate judges by her irresponsible remarks. Matters of law such as these issues should be determined based on the constitution, the law, and the facts. Governor Perdue’s remarks appear to be an intolerable effort to sway the trial courts and appellate courts to get a result she wants rather than a result mandated by the law.”

This association of attorneys, whose mission is to protect people's right, again calls on the Governor and other state officials to respect the Rule of Law and the judges who interpret the law and to follow the constitution and the law as it is written, not as they would like it to be.

North Carolina Advocates for Justice
December 15, 2009

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