



Court Historical Society NEWSLETTER *Eastern District of Tennessee*



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MAGISTRATE JUDGES IN 1999—This photo was made in Chattanooga in July 1999, on the day of the investiture of Magistrate Judge William B. Carter, seated. Behind him, from the left, are Magistrate Judge Robert P. Murrian, Magistrate Judge and later U.S. District Judge Thomas W. Phillips, Magistrate Judge Dennis Inman, and Magistrate Judge John Y. Powers. Carter, Murrian, Phillips, and Inman are now retired. Powers is deceased.

Judicial Recall Service – A Pleasure

By Don K. Ferguson

Most people associate the term “recall” with elected government officials, but it applies in the federal judiciary also, only not with the negative connotation that it does in politics. Just the opposite.

Since the mid-1980s, there’s been a provision of the law that provides for retired magistrate judges and bankruptcy judges to serve on re call. This program gives the retired judges an opportunity to assist the court and the ability to continue on a limited basis the work they have enjoyed through the years.

Currently, the Eastern District of Tennessee has two retired magistrate judges serving on recall status—**William B. Mitchell Carter** and **Clifford Shirley**. A third one, **Magistrate Judge Dennis Inman**, who retired in 2015, served on a recall basis until April of this year. Some of their comments about their service as recalled judges appear below. [The only other EDTN magistrate judge to serve on recall was **John Y. Powers**, now deceased, who served for four years after his retirement in 1999.]

The two Eastern District of Tennessee retired Bankruptcy Judges, **Richard Stair** and **John Cook**, are on the Bankruptcy Recall Registry, which means they are eligible to be recalled if they choose to serve, but the ultimate decision by those on the Registry about whether to serve is up to the individual judge. Neither of the two has served on recall. The late **Bankruptcy Judges Ralph Kelley**

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No Watergate with Judge Taylor 43 Years Ago

“Every member of the press corps was interested in finding his own Watergate.”

These were the words of former Knoxville law clerk **James Brennan** about the news reporters who covered the 1977 trial of then-**Maryland Governor Marvin Mandel** in Baltimore, conducted by **U.S. District Judge Robert L. Taylor** of Knoxville by special assignment of the Chief Justice.

Brennan accompanied Judge Taylor to Baltimore for the three-month trial.

Before leaving his two-year law clerkship in 1977, Brennan wrote a 62-page summary of his recollections about the trial and about their Baltimore experience. He went on to practice law in Chicago for many years and is now retired. Brennan is a longtime member of the Court Historical Society and gave the Society a copy of the summary some time ago.

“An entire book could be written about Judge’s relationship with the press throughout the trial,” Brennan wrote. It was a Page One story daily for Baltimore and Washington newspapers for the duration of the trial.

“The press was paranoid about secrecy. It took us a long while to

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“THE PRESS WAS VIGOROUS”—A news photographer shot this picture of U.S. District Judge Robert L. Taylor, left, with his secretary, Jean Barr, and law clerk James Brennan while they were in Baltimore during the lengthy trial of Maryland’s governor in 1977.

Judicial Recall Service

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and **Clive Bare** did, however, serve on recall after their retirement.

The compensation that recalled judges receive is an amount equivalent to their regular judicial pay minus the amount of their government annuity.

JUDGE CARTER's service on recall since his retirement in 2015 has been with the Northern District of New York first, and later, from 2018 continuing to the present, with the Western District of New York, all done electronically between his office in the Tallan Building in Chattanooga and the New York court. His assignment to these districts was made by the Administrative Office of the U.S. Courts because of the backlog of Social Security cases there.

Judge Carter said he enjoys it. "I did not learn to hunt, and I did not learn to fish, so continuing to work with the court and teach college classes [UT-Chattanooga and Covenant College] seemed to be my best option."

JUDGE INMAN said, "I loved my work, and leaving the people behind was hard. Taking recall was a way to maintain contact. Also, I was willing to help the court with the backlog of 2255s [prisoner petitions]; the court and all its judges had been better than good to me, and this was a way to pay them back in small measure." Judge Inman said he "decided in April to *really* retire, but I still miss it."



Judge Shirley

JUDGE SHIRLEY, who retired in 2018, said his recall duties started in Greeneville, where he joined recalled Magistrate Inman for a while, helping until **Magistrate Judge Wyrick** came on board, and then he began helping **Chief Judge Reeves, Judge Varlan, and Senior Judge Jordan** in Knoxville with change-of-plea hearings and Reports and Recommendations.

Judge Shirley said his recall work "has been a pleasure and a gift, to be able to assist the judges who befriended me so much over the years." He said he plans to continue his recall tour of duty "into the foreseeable future." He added, "It's also been great to be able to reconnect with so many of the Court Family that I miss seeing during retirement."

Justice Sanford Book

The book about the late **U.S. Supreme Court Justice Edward T. Sanford** and former EDTN judge has sold well, according to UT Press. The title: *Edward Terry Sanford, A Tennessean on the U.S. Supreme Court*. The author is **Stephanie Slater**, law clerk for Tennessee Court of Appeals **Judge John W. McClarty** and a former law clerk for **U.S. District Judge Thomas W. Phillips**.

The book, now in paperback, costs \$48 and is available at the gift shop of the East Tennessee History Center, from Amazon, UT Press, and bookstores.

No Watergate with Judge Taylor

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realize why the press was so skeptical about everything that was said or done by the Court in connection with the proceedings," Brennan wrote.

"It appears from the record of the last trial [there had been an earlier trial conducted by another judge that ended in a mistrial] that the press was told on one occasion that a juror was discharged due to a respiratory ailment, when, in fact, he was discharged because he had been the subject of jury tampering," Brennan said.

"We were told that when the grand jury was investigating the conduct of former **Vice President Spiro Agnew** [former governor of Maryland], one of the Washington newspapers bugged the grand jury room," Brennan wrote.

"The press [at the Mandel trial] was indeed vigorous. They would go to great lengths to get a story. One reporter for the Washington Star seemed to seek out trouble. The marshals caught him one evening rummaging through the jury room. On another occasion, the reporter left his duffle bag in the courtroom, and it contained a tape recorder. [Court security measures were not as tight in the 1970s as they are today.—EDITOR]"

"When one of the jurors became ill on the first Friday night of jury deliberations, the marshals caught the reporter trying to sneak into the juror's hospital room."

It took a little while for the press to come to know Judge Taylor, Brennan said. "They were accustomed to secrecy and an adversary relationship between the court and the press. But the judge fulfilled his promise to hold proceedings in open court to the fullest extent possible. He dealt openly with them.

"By the time the trial ended, virtually every member of the press corps stated to me that they thought the world of Judge Taylor and wished that there were more judges like him," Brennan wrote.

The other law clerk serving with Judge Taylor at that time and who spent considerable time at the Mandel trial was **Charles Huddleston**, today an Atlanta lawyer and also a longtime member and supporter of the Court Historical Society. Governor Mandel and five co-defendants were convicted of mail fraud and racketeering charges stemming from a horse racing deal. The convictions were overturned in 1987 as the result of a U.S. Supreme Court decision in another case.—EDITOR

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