

National Bar Association 79th Annual Convention

Resolutions

Presented during the
Closing Plenary Session
Friday, August 13, 2004
9:30 a.m.

Presented by
Vanita Banks, Esquire
Chair, Issues & Resolutions Committee
The Westin Charlotte
Charlotte, North Carolina

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NATIONAL BAR ASSOCIATION RESOLUTION IN OPPOSITION TO SUDANESE GENOCIDE AND RECOMMENDED ACTION

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, the United Nations Convention on Genocide defines genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group by... deliberately inflicting on members of the group conditions of life calculated to bring about its physical destruction in whole or in part," and

WHEREAS, according to The Washington Post editorial page on Father's Day, June 20, 2004;

- a. Arab death squads have herded African villagers into refugee camps in order to bring about their physical destruction; and
- b. Arab death squads have targeted these Africans for destruction because of their black skin color; and
- c. U.N. fact-finders have come across 23 African villages burned to the ground, while ethnic Arab villages, some separated from an African one by as little as 500 yards, were found unscathed; and
- d. Arab death squads attack refugees who venture out of their camps in search of food and firewood; and
- e. The government of Sudan deliberately hampers international humanitarian efforts to stop these killings; and
- f. The United States has a moral and legal obligation to do everything possible to stop these killings; and
- g. Andrew Nastios, the administrator of the U.S. Agency For International Development has said that if relief does not reach these people in Darfur, the death toll could approach 1,000,000 people; and

WHEREAS, it is imperative that immediate action of the most effective and highest order must be taken.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association urges the United States to

1. publicly name officials in the Sudan government who are responsible for its policy in Darfur, and
2. freeze any U.S. based assets that these officials might have, and freeze any U.S. based assets that the Sudanese government might have on deposit
3. bar any of these officials from entering the United States or any territory that the United States controls, and
4. cease doing business with any company in which these officials have an interest; including, but not limited to a suspension or denial of any license, permit or other allowance for them to do business in the United States or from the United States or any place over which the United States has jurisdiction, and
5. announce that it will identify those who are responsible for this heinous conduct to prosecute them for genocide and other crimes of war, and

6. immediately dispatch troops to Darfur to protect any more lives from being lost, and to insure that relief supplies will reach these Africans immediately.

Done this 13th day of August, 2004 in the City of Charlotte and the State of North Carolina.

By: _____
Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association

**NATIONAL BAR ASSOCIATION RESOLUTION IN RECOGNITION
OF THE 79th ANNUAL CONVENTION OF THE NATIONAL BAR
ASSOCIATION AFFILIATE HOSTS**

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, the 79th Annual Convention of the National Bar Association was convened in Charlotte, North Carolina, August 7 – 14, 2004;

WHEREAS, the affiliate hosts for the 79th Annual Convention of the National Bar Association are the John S. Leary Bar Association and the North Carolina Association of Black Lawyers;

WHEREAS, the John S. Leary Bar Association and the North Carolina Association of Black Lawyers have done an outstanding job in hosting the National Bar Association during its 79th Annual Convention;

WHEREAS, the Co-Chairs of the Convention Planning Committee: Eric Montgomery, Corie Pauling and Kaye Webb have worked tirelessly to prepare for the 79th Annual Convention.

NOW THEREFORE BE IT RESOLVED, that the officers, board and members of the National Bar Association express sincere gratitude and appreciation to the affiliate hosts, the John S. Leary Bar Association and the North Carolina Association of Black Lawyers, its Presidents and the Convention Planning Committee for the gracious manner in which they have hosted the National Bar Association at its 79th Annual Convention.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina

By: _____

Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association

**RESOLUTION OF THE NATIONAL BAR ASSOCIATION CENSORING THE
CONDUCT OF JUDGE MARGARET T. WALLER,
A CIRCUIT COURT JUDGE IN FLORIDA'S NINTH JUDICIAL CIRCUIT**

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, the National Bar Association, the oldest and largest bar association of attorneys of color in the world, recognizes the importance of professionalism in the legal profession both on the bench and in the bar; and

WHEREAS, when the National Bar Association is informed of conduct that may constitute a blatant lack of professionalism or judicial temperament, it is incumbent upon the Association to express its position regarding the act in question; and

WHEREAS, on January 6, 2004, it was reported that Margaret T. Waller, a Circuit Court Judge in the Ninth Judicial Circuit of Florida, had displayed a blatant lack of professionalism and judicial temperament when she encountered Kemie King, a young rookie African American female Assistant Public Defender, and summarily declared her to be in "contempt of court"; and

WHEREAS, the Court's transcript reveals that when Judge Waller called Attorney King's case, Attorney King requested a continuance because she had not received discovery or an affidavit of violation of probation from the prosecutor; the prosecutor objected to the continuance; there was a brief exchange after which Judge Waller announced that Attorney King was in "contempt of court" and ordered the bailiff to handcuff her and escort her to the jury box (from Judge Waller's first warning to Attorney King not to argue with her to the announcement of "contempt" forty seconds passed); Attorney King was handcuffed and required to remain in the jury box with criminal defendants, including her client, while Judge Waller heard other violation of probation cases; and

WHEREAS, at no time did Judge Waller tell Attorney King that she was in criminal or civil contempt, ask Attorney King to explain why she should not be held in contempt or afforded Attorney King due process; and

WHEREAS, because the alleged conduct of Judge Waller appeared egregious, the National Bar Association, in partner with its affiliate, the Virgil Hawkins Florida Chapter of the National Bar Association, established a Special Investigation Committee, comprised of members of the National Bar Association admitted to practice in the State of Florida, to inquire as to what occurred, prepare a report and make recommendations to the National Bar Association; and

WHEREAS, after considering the statements of Attorney King, as captured on the audio tape of the actual Court proceeding, as well as from the verbatim transcript of that proceeding, the Special Investigation Committee concluded that the actions of Attorney King did not constitute an act calculated to embarrass, hinder or obstruct the Court in the administration of justice or which was calculated to lessen its authority or its dignity; and

WHEREAS, the Committee found that Judge Waller never followed up to extend a due process or show cause hearing at which Attorney King would be presented with an opportunity to be heard on the merits of the summary decisions and punishment inflicted upon her (instead, Judge Waller filed a complaint against Attorney King with The Florida Bar); and

WHEREAS, the Committee further found that Judge Waller's actions, whereby she (a) cited Attorney King for contempt, (b) directed that she be handcuffed in open court, (c) ordered that she be detained and seated in the courtroom jury box - where she was required to sit among criminal defendants waiting to be heard, including one or more of her own clients, (d) and failed to provide Attorney King with a due process or show cause hearing, were improper and amounted to a gross abuse of her discretion as a judicial officer of the State of Florida; and

WHEREAS, the National Bar Association has received and reviewed the Final Report of the Special Investigative Committee created to inquire into the matters of the Kemie King Handcuffing Incident and the Judicial Conduct of Judge Margaret T. Waller.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association at its 79th Annual Meeting, in Charlotte, North Carolina, while in Plenary Session by motion duly made by The Honorable Sara J. Harper, of Cleveland, Ohio, Judge of the Ohio Eight District Court of Appeal (retired) and a past Chair of the Judicial Council of the National Bar Association, and seconded by Juan Thomas, Esquire, of Chicago, Illinois, the Immediate past Chair of the Young Lawyers Division of the National Bar Association, duly adopts the Final Report of the Special Investigative Committee; and

BE IT FURTHER RESOLVED, that the National Bar Association censors the conduct of Judge Margaret T. Waller, who overreacted and grossly abused her judicial office by (a) citing Attorney King for contempt, (b) directing that she be handcuffed in open court, (c) ordering that she be detained and seated in the courtroom jury box-where she was required to sit among criminal defendants waiting to be heard, including one or more of her own clients and (d) failing to provide Attorney Ms. King with a due process or show cause hearing; and

BE IT FURTHER RESOLVED, that copies of this Resolution be disseminated to (a) the appropriate officers of the executive, judicial and legislative branches of the governments of the State of Florida and of the United States, (b) the National Bar Association membership and all of its affiliates throughout the United States and the world, (c) the national and local media, and (d) such other persons or entities believed to be interested in the fair administration of justice.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina.

By: _____
Clyde E. Bailey, Sr.
President,
National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary,
National Bar Association

**THE NATIONAL BAR ASSOCIATION RESOLUTION IN OPPOSITION
TO THE IMPOSITION OF PUNITIVE DAMAGES
AGAINST JUDGE LONNIE RANDOLPH**

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, it is a basic principle of law that punitive damages are awarded to a plaintiff over and above the amount which will compensate a party for his or her actual loss, and are based on a showing that the loss was aggravated by violence, oppression, malice, fraud, or wanton or wicked conduct; and

WHEREAS, punitive damages against a public official acting in his or her official capacity is not favored in law and has national ramifications as a precedent; and

WHEREAS, an all-white jury rendered a verdict of \$500,000.00 in compensatory damages and \$4,000,000.00 in punitive damages against Judge Lonnie M. Randolph for laying off a Caucasian employee based on allegations of reverse discrimination in the Federal District Court of Northern Indiana; and

WHEREAS, at the time of the act which led to the lawsuit, Judge Randolph was acting in his official elected capacity as Judge of the East Chicago City Court, State of Indiana, County of Lake; and

WHEREAS, Judge Randolph at such time was facing a budget crisis and the elimination of his Court, which made layoffs of three (3) Caucasians, three (3) Hispanics, and four (4) African-Americans necessary for the court's survival; and

WHEREAS, Judge Randolph, while acting in his official capacity as Judge, exercised his administrative discretion to lay off a Caucasian public defender and not an African-American public defender; and

WHEREAS, the Caucasian public defender was called back to work and refused to return after the Court's budget crisis was resolved and the efforts by the Mayor and City of East Chicago officials to eliminate the Court were defeated; and

WHEREAS, an award of punitive damages against an elected public official creates a chilling effect on the ability of the public official to perform his or her administrative duties as an elected public official; and

WHEREAS, an award of punitive damages against any public official, be it judicial or otherwise, creates a very dangerous precedent for all public officials acting within the scope of their duties.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association urges the Northern District Court Federal Magistrate of the State of Indiana to:

1. Reconsider the issue of punitive damages awarded against Judge Randolph; and
2. To vacate and set aside the Jury's \$4,000,000.00 punitive damages awarded as being contrary to law.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina.

BY: _____
Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association

**NATIONAL BAR ASSOCIATION RESOLUTION IN SUPPORT OF THE
NATIONAL COURT APPOINTED SPECIAL ADVOCATE ASSOCIATION AND
THE KINSHIP CAREGIVER SUPPORT ACT**

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, more than 3 million children are reported abused and neglected each year in the United States equaling more than 9,000 a day; and

WHEREAS, African American children make up less than 20% of the nation's children; and

WHEREAS, of the 588,000 children in foster care in our community over 237,000 are African-American; and

WHEREAS, African-American families do not abuse their children at any greater rate than other families; and

WHEREAS, African-American children are more likely to be removed from their mothers as infants and placed into the foster care system, than white children; and

WHEREAS, African-American children remain in foster care almost twice as long as white children; and

WHEREAS, African-American children experience reunification with their families at lower rates than white children; and

WHEREAS, African-American who are legally available for adoption wait longer for an adoptive placement and are less likely to be adopted; and

WHEREAS, African-American children are disadvantaged by practices that ignore or misrepresent families' culturally-specific strengths, and mismatches between cultural background or expertise of foster parents and the children placed in their care; and

WHEREAS, the National Court Appointed Special Advocate (CASA) Association is a non-profit organization founded in 1976 that works to promote and support quality volunteer advocacy to help abused or neglected children find safe, permanent and mentoring homes, and receive the supportive services they require; and

WHEREAS, although National CASA is comprised of 70,000 volunteers in 950 programs in all 50 states, Washington D.C. and the U.S. Virgin Islands, only 11% of the CASA volunteers are African-American; and

WHEREAS, Senator Hillary Clinton (D-NY) has planned to sponsor the Kinship Caregiver Support Act, which would allow states to use federal Title IV-E funds, which are now limited to foster care and adoption, to help provide subsidized guardianship payments to kin caregivers; and

WHEREAS, the Black Administrators in Child Welfare are deeply concerned about the overrepresentation of African-American children in the nation's child welfare system.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association encourages its members, affiliates, sections and divisions to become actively involved as a CASA volunteer, and to spearhead efforts in their communities to increase the number of African-American volunteers to serve the needs of our abused and neglected children;

BE IT FURTHER RESOLVED, that the National Bar Association encourages its members, affiliates, sections and divisions to support the Kinship Caregiver Act, by contacting their local Congressional representative to urge them to support the passage of this Bill; and

BE IT FURTHER RESOLVED, that the National Bar Association partner with the Black Administrators in Child Welfare to develop and promote, and implement policies, programs, and practices that result in the significant reduction in the number of our African-American children in the child welfare system; and

BE IT FURTHER RESOLVED, that copies of this resolution be widely disseminated to NBA members and the public.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina.

BY: _____
Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association

**NATIONAL BAR ASSOCIATION
RESOLUTION IN SUPPORT OF THE RENEWAL OF THE
ASSAULT WEAPONS BAN OF 1994**

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, on September 13, 1994, as part of the Violent Crime Control and Law Enforcement Act of 1994, domestic gun manufacturers were required to stop production of semi-automatic assault weapons and ammunition clips holding more than 10 rounds except for military or police use; and

WHEREAS, imports of assault weapons not already banned by administrative action under Presidents Ronald Reagan and George H.W. Bush were also halted; and

WHEREAS, the only weapons that are prohibited are semi-automatic guns with multiple assault weapon features, not traditional guns designed for use in hunting and recreational activities; and

WHEREAS, the United States Supreme Court and the federal courts have refused to hear or have rejected legal challenges to the ban by the gun lobby, led by the National Rifle Association (NRA), which fought against passage of the assault weapons ban in 1994 and continues to oppose it to this day; and

WHEREAS, every major national law enforcement organization in the country supported the federal assault weapons ban and worked for its passage; and

WHEREAS, police across America in the 1980s had reported semi-automatic assault weapons had become the "weapon of choice" for drug traffickers, gangs and paramilitary extremist groups; and

WHEREAS, assault weapons pose a serious threat to the safety of all Americans, particularly law enforcement officers who are at risk from these weapons because of their high firepower and ability to penetrate body armor; and

WHEREAS, the assault weapons ban will expire ("sunset") in September 2004 unless Congress and President George W. Bush renew it, meaning that AK47s and other semi-automatic assault weapons will begin flooding our streets again.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association supports the renewal of the assault weapons ban; and

BE IT FURTHER RESOLVED, that the National Bar Association urges its members, affiliates, sections and divisions to contact their local Congressional representatives and President Bush to urge them to renew the assault weapons ban before it expires in September 2004;

BE IT FURTHER RESOLVED, that copies of this resolution be widely disseminated to NBA members and the public.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina.

BY: _____
Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association

**NATIONAL BAR ASSOCIATION RESOLUTION IN SUPPORT OF THE
PASSAGE OF A CONSTITUTIONAL RIGHT TO VOTE**

WHEREAS, the National Bar Association is the oldest and largest bar association of color in the world; and

WHEREAS, while most Americans believe that the “legal right to vote” in our democracy is explicit (not just implicit) in our Constitution and laws, our Constitution only provides for non-discrimination in voting on the basis of race, sex, and age in the 15th, 19th and 26th Amendments respectively; and

WHEREAS, the 10th Amendment to the Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the State, are reserved to the States respectively, or to the people.” Since the word “vote” appears in the Constitution only with respect to non-discrimination, the so-called right to vote is a “state right.”

WHEREAS, only a constitutional amendment would give every American an individual affirmative citizenship right to vote; and

WHEREAS, institutionally, CONGRESS DOES NOT HAVE THE POWER WITHIN THE CONSTITUTION to fix a flawed voting system. Our “states’ rights” voting system is structured to be “separate but unequal”; and

WHEREAS, there is only one way to legally guarantee “an equal right to vote” to every individual American and that is to add a Voting Rights Amendment to the Constitution; and

WHEREAS, Congressman Jesse L. Jackson, Jr. has introduced a bill to add a Voting Rights Amendments to the United States Constitution based on the individual right of all Americans to vote.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association encourage its members, affiliates, sections and divisions to support the passage of a constitutional amendment by contacting their local congressional representative to urge them to support the passage of this proposed legislation;

BE IT FURTHER RESOLVED that copies of this resolution be disseminated to all NBA members and the public.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina.

BY: _____
Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association

**NATIONAL BAR ASSOCIATION RESOLUTION TO ESTABLISH A TASK
FORCE TO STUDY SELECTIVE PROSECUTION AND OTHER DISPARATE
TREATMENT OF MINORITIES AND WOMEN IN LAWYER AND JUDICIAL
DISCIPLINARY MATTERS**

WHEREAS, the National Bar Association is the oldest and largest bar association of attorneys of color in the world; and

WHEREAS, the legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government, including law enforcement and court adjudication; and

WHEREAS, the legal profession's relative autonomy carries with it a responsibility to assure that its regulations and disciplinary processes are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar; and

WHEREAS, attorneys and judges play a vital role in the preservation of society. The fulfillment of this role requires an independent judiciary and bar, free from intimidation and harassment, which is indispensable to justice in our society; and

WHEREAS, the National Bar Association has received numerous complaints that selective prosecution and other disparate treatment of minorities and women in lawyer and judicial disciplinary matters has occurred and is occurring in several state bar associations. It is the consensus of the members of the National Bar Association Committee on Legal Ethics and Professional Responsibility that this issue warrants thorough consideration and study.

NOW THEREFORE BE IT RESOLVED, that the National Bar Association establish a task force to study the issue of selective prosecution and other disparate treatment of minorities and women in lawyer and judicial disciplinary matters.

BE IT FURTHER RESOLVED, that this task force meet and report preliminary suggestions no later than April 3, 2005, with a comprehensive report by August 6, 2005.

Done this 13th day of August, 2004 in the City of Charlotte and State of North Carolina.

BY: _____
Clyde E. Bailey, Sr.
President, National Bar Association

Attested and Subscribed to

Sonya D. Hoskins
Secretary, National Bar Association