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STATISTICAL COMPILATION OF THE OPINIONS OF THE SUPREME COURT OF NORTH CAROLINA TERMS 1993-94 THROUGH 1994-95

HARRY C. MARTIN* **

This statistical review provides a numerical analysis of the work of the North Carolina Supreme Court for the 1993-94 and 1994-95 terms. Always present in any such review is the possibility of confusion regarding the meaning of the statistics. In addition, because the tables were compiled by hand-turning and counting the opinions contained in the official reporter, some slight margin of error may remain despite diligent checking and rechecking. Also of note, Tables III-VIII classify opinions by subject matter, a format which entails the exercise of discretion in determining within which classification an opinion should be tallied. For instance, a domestic relations case may have been decided upon a rule of civil procedure, and the opinion arguably could be counted within either category.

It should also be noted that Justice Robert F. Orr joined the court on January 5, 1995, as a result of his victory in the general election of 1994.¹ Additionally, Justice I. Beverly Lake, Jr. won election and returned to the court on January 4, 1995.² Chief Justice James G. Exum, Jr. retired from the court on December 31, 1994, and was succeeded as Chief Justice by Associate Justice Burley B. Mitchell, Jr.³

The work of the court comes from many sources. This survey is limited, however, to the court's output—the work produced for use by the public, including lawyers, judges, academicians, and others who

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** Editor's Note: The Board of Editors cannot take credit for either conducting or verifying the research contained in this study.

1. *Judges of the Supreme Court*, 338 N.C. v (1995) [hereinafter *Judges*] (listing the members of the North Carolina Supreme Court and noting changes in the composition of the court).

2. *Id.* Associate Justice Lake was first appointed to the North Carolina Supreme Court by Governor James G. Martin and was sworn in on 5 February 1992. *Justices of the Supreme Court*, 330 N.C. v (1992). Justice Lake replaced retiring Justice Harry C. Martin. *Id.* Justice Lake vacated his seat on 10 January 1993. *Justices of the Supreme Court*, 332 N.C. v (1993).

3. *Judges*, *supra* note 1, at v.

toil in the legal vineyard. This review does not reflect the sources of the cases decided by the court, whether by right of appeal, petition for discretionary review, certiorari, or otherwise. Furthermore, it does not include the many petitions and motions reviewed by the court. The reader should also recognize that this review is not evaluative, since numbers alone are of little value in determining the difficulty and quality of the work produced.

The entire work product of the respective justices should be borne in mind in analyzing this statistical review. In that regard, the reader should note that, although all of the justices had additional demands upon their time, the Chief Justice devotes many hours each day to administering the entire judicial branch of North Carolina's government.

Perhaps the most ominous conclusion to be drawn from this review is the constant increase in the time that the court is required to devote to the disposition of criminal appeals, particularly appeals of capital cases. During the 1993-94 term, the court wrote opinions in 42 capital cases, or 32% of the total opinions for the term.⁴ An additional 35 opinions were written in other criminal cases, with the total opinions in criminal cases being 62% of the caseload of the court.⁵

The statistics for the 1994-95 term suggest a continuation of this trend: 50 opinions in capital cases, equaling 36% of total opinions issued.⁶ When the additional criminal cases are included, the criminal share of the caseload leaps to 70%.⁷

The number of capital opinions issued has increased from 13 in the 1989-90 term to a high of 61 in the 1991-92 term,⁸ and most recently in the 1994-95 term there were 50 capital opinions.⁹ Civil opinions during the same six year period have remained relatively constant beginning with 40 in the 1989-90 term¹⁰ and concluding with 41 in the 1994-95 term,¹¹ with the exception of 62 in the 1991-92 term.¹²

It should also be recognized that writing an opinion in a capital case involves an enormous amount of time and energy, not only of the author but of the entire court, law clerks and secretarial staff. The

4. See *infra* 1993-94 Table III.

5. *Id.*

6. See *infra* 1994-95 Table III.

7. *Id.*

8. Harry C. Martin, *Statistical Compilation of the Opinions of the Supreme Court of North Carolina: Terms 1989-90 through 1992-93*, 72 N.C. L. REV. 1453, 1461, 1474 (1994).

9. See *infra* 1994-95 Table III.

10. Martin, *supra* note 8, at 1474.

11. See *infra* 1994-95 Table III.

12. Martin, *supra* note 8, at 1461.

statistics of the court indicate that, due to the flood of criminal appeals heard by the court, serious consideration should be given toward the future of civil appeals to the Supreme Court of North Carolina.

JULY 1, 1994-JUNE 30, 1995

TABLE I
NUMBER OF OPINIONS AUTHORED BY EACH JUSTICE

<i>Justice</i>	<i>Number of Opinions Authored</i>	<i>Percentage of Total</i>
Exum ¹³	22	15.9
Mitchell ¹⁴	16	11.6
Meyer ¹⁵	17	12.3
Frye	18	13.1
Webb	16	11.6
Whichard	25	18.1
Parker ¹⁶	19	13.8
Lake ¹⁷	4	2.9
Orr ¹⁸	1	0.7
TOTAL	138	100%

Per Curiam Decisions: 44*

*Justice Orr did not participate in fourteen of the per curiam decisions which occurred after his induction. Justice Lake did not participate in one of the per curiam decisions which occurred after his induction.

13. *Judges, supra* note 1, at v. Chief Justice Exum retired from the court on December 31, 1994. *Id.*

14. *Id.* Governor James B. Hunt, Jr. appointed Associate Justice Burley B. Mitchell, Jr., to serve as Chief Justice. *Id.* Justice Mitchell was sworn in as Chief Justice on 3 January 1995. *Id.*

15. *Id.* Justice Louis B. Meyer retired from the court on December 31, 1994. *Id.*

16. *Id.* Justice Parker vacated her seat. *Id.* Thereafter, Justice Parker was appointed by Governor James B. Hunt, Jr. and sworn in on January 3, 1995 to replace Justice Burley B. Mitchell, Jr. who became Chief Justice. *Id.*

17. *Id.* Justice I. Beverly Lake, Jr., was elected and sworn in on January 4, 1995. *Id.*

18. *Id.* Justice Robert F. Orr, member of the North Carolina Court of Appeals, was elected and sworn in on January 5, 1995. *Id.*

TABLE II
ACTIONS OF INDIVIDUAL JUSTICES

<i>Justice</i>	<i>Opinions Written</i>				<i>Opinions Joined</i>		
	<i>Majority</i>	<i>Concur.*</i>	<i>Dissents*</i>	<i>Total</i>	<i>Concur.</i>	<i>Dissents</i>	<i>Total</i>
Exum	22	3	4	29	0	3	3
Mitchell	16	3	2	21	1	1	2
Meyer	17	3	2	22	1	2	3
Frye	18	2	5	25	1	2	3
Webb	16	2	1	19	0	3	3
Whichard	25	2	1	28	0	0	0
Parker	19	0	0	19	1	0	1
Lake	4	0	0	4	1	0	1
Orr	1	0	0	1	1	0	1
<i>TOTAL</i>	<i>138</i>	<i>15</i>	<i>15</i>	<i>168</i>	<i>6</i>	<i>11</i>	<i>17</i>

* Dissents and concurrences include dissents and concurrences as to sentence and in part.

TABLE III
NUMBER OF OPINIONS FILED BY THE JUSTICES
ACCORDING TO SIX CATEGORIES

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)**</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil***</i>	<i>Total</i>
Exum	5	9	1	0	0	7	22
Mitchell	7	4	0	0	0	5	16
Meyer	7	7	0	0	1	2	17
Frye	6	2	0	0	0	10	18
Webb	2	9	0	1	0	4	16
Whichard	9	6	0	0	0	10	25
Parker	7	10	1(1*)	0	1	0	19(1*)
Lake	2	2	0	0	0	0	4
Orr	0	1	0	0	0	0	1
<i>TOTAL</i>	<i>45</i>	<i>50</i>	<i>2(1*)</i>	<i>1</i>	<i>2</i>	<i>38</i>	<i>138</i>

* Those opinions that are categorized as both "Criminal (Capital)" and "Criminal (Minor)" have been included under the "Criminal (Minor)" category in parenthesis.

** "Criminal (Minor)" includes all cases in which the victim was a minor.

*** "Civil" Includes all civil cases except worker's compensation and domestic relations.

TABLE IV—WORKING ALIGNMENTS

	<i>Exum</i>	<i>Mit.</i>	<i>Meyer</i>	<i>Frye</i>	<i>Webb</i>	<i>Whi.</i>	<i>Par.</i>	<i>Lake</i>	<i>Orr</i>
<i>Exum (22)</i>									
majority	19	19	21	19	22	19	0	0	
concur*	4	2	0	1	0	1	0	0	
dissent*	1	1	1	1	0	0	0	0	
<i>Mitchell (16)</i>									
majority	10		9	15	15	13	16	4	4
concur*	0		0	1	0	2	0	1	1
dissent*	0		2	1	1	1	0	0	0
<i>Meyer (17)</i>									
majority	14	17		16	16	16	16	0	0
concur*	2	0		0	0	0	0	0	0
dissent*	2	0		1	1	0	0	0	0
<i>Frye (18)</i>									
majority	13	17	12		17	18	18	2	1
concur*	0	0	0		1	0	0	0	0
dissent*	1	1	1		1	0	0	0	0
<i>Webb (16)</i>									
majority	11	16	12	15		16	15	0	0
concur*	1	0	0	1		0	0	0	0
dissent*	1	0	0	1		0	0	0	0
<i>Whichard (25)</i>									
majority	15	24	17	23	25		24	6	4
concur*	0	0	1	0	0		0	0	0
dissent*	3	1	0	3	0		0	0	0
<i>Parker (19)</i>									
majority	12	17	11	17	18	18		4	3
concur*	0	0	1	1	0	0		0	0
dissent*	0	0	0	0	0	0		0	0
<i>Lake (4)</i>									
majority	0	4	0	4	4	4	4		4
concur*	0	0	0	0	0	0	0		0
dissent*	0	0	0	0	0	0	0		0
<i>Orr (1)</i>									
majority	0	1	0	1	1	1	1	1	
concur*	0	0	0	0	0	0	0	0	
dissent*	0	0	0	0	0	0	0	0	

*All dissents include dissents as to sentence and dissents in part. They also include dissents written by the individual justices and dissents in which the justices joined each other. Concurrences are tabulated in the same way. Thus, the stated number of dissents and concurrences accurately state the number of justices who dissented or concurred, but not necessarily the number of such opinions filed. Where the numbers under majority, concur, and dissent add up to a smaller number than the total number of opinions a particular justice filed, one or more of the other justices did not participate in that opinion.

TABLE V
NUMBER OF AUTHORED DISSENTS*
BY EACH JUSTICE AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	0	3	0	0	0	1	4
Mitchell	0	0	1	0	0	1	2
Meyer	0	2	0	0	0	0	2
Frye	3	0	0	0	0	2	5
Webb	1	0	0	0	0	0	1
Whichard	1	0	0	0	0	0	1
Parker	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0
Orr	0	0	0	0	0	0	0
TOTAL	5	5	1	0	0	4	15

* Dissents include dissents as to sentence and dissents in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE VI
NUMBER OF DISSENTS* JOINED BY EACH
JUSTICE AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	2	0	0	0	0	1	3
Mitchell	0	0	0	0	0	1	1
Meyer	1	0	0	0	0	1	2
Frye	0	2	0	0	0	0	2
Webb	2	0	0	0	0	1	3
Whichard	0	0	0	0	0	0	0
Parker	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0
Orr	0	0	0	0	0	0	0
TOTAL	5	2	0	0	0	4	11

* Dissents include dissents as to sentence and dissents in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE VII
NUMBER OF AUTHORED CONCURRENCES* BY
EACH JUSTICE AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	0	3	0	0	0	0	3
Mitchell	0	2	1	0	0	0	3
Meyer	0	2	1	0	0	0	3
Frye	0	1	0	0	0	1	2
Webb	0	0	1	0	0	1	2
Whichard	0	1	0	0	0	1	2
Parker	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0
Orr	0	0	0	0	0	0	0
TOTAL	0	9	3	0	0	3	15

* Concurrences include concurrences as to sentence and concurrences in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE VIII
NUMBER OF CONCURRENCES* JOINED BY EACH
JUSTICE AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	0	0	0	0	0	0	0
Mitchell	0	0	0	0	0	1	1
Meyer	0	1	0	0	0	0	1
Frye	0	1	0	0	0	0	1
Webb	0	0	0	0	0	0	0
Whichard	0	0	0	0	0	0	0
Parker	0	1	0	0	0	0	1
Lake	0	0	0	0	0	1	1
Orr	0	0	0	0	0	1	1
TOTAL	0	3	0	0	0	3	6

* Concurrences include concurrences as to sentence and concurrences in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE IX
4-3 DECISIONS

<i>Justices Constituting the Majority*</i>	<i>Title of Case</i>
Meyer, Webb, Whichard, Parker	Best v. Duke University
Exum, Mitchell, Frye, Parker	State v. Pendleton
Mitchell, Meyer, Whichard, Parker	State v. Hunt

* Name of author italicized

JULY 1, 1993 - JUNE 30, 1994

TABLE I
NUMBER OF OPINIONS AUTHORED BY EACH JUSTICE

<i>Justice</i>	<i>Number of Opinions Authored</i>	<i>Percentage of Total</i>
Exum	19	15.2
Mitchell	21	16.8
Meyer	15	12.0
Frye	19	15.2
Webb	19	15.2
Whichard	15	12.0
Parker	17	13.6
TOTAL	125	100%

Per Curiam Decisions: 43*

* Justice Parker did not participate in two of the per curiam decisions.

TABLE II—ACTIONS OF INDIVIDUAL JUSTICES

<i>Justice</i>	<i>Opinions Written</i>				<i>Opinions Joined</i>		
	<i>Majority</i>	<i>Concur.*</i>	<i>Dissents*</i>	<i>Total</i>	<i>Concur.</i>	<i>Dissents</i>	<i>Total</i>
Exum	19	2	4	25	0	6	6
Mitchell	21	2	9	32	1	1	2
Meyer	15	6	18	39	0	3	3
Frye	19	2	3	24	1	3	4
Webb	19	0	2	21	1	2	3
Whichard	15	0	1	16	0	3	3
Parker	17	0	0	17	1	4	5
TOTAL	125	12	37	174	4	22	26

* Dissents and concurrences include dissents and concurrences as to sentence and in part.

TABLE III—NUMBER OF OPINIONS FILED BY THE
JUSTICES ACCORDING TO SIX CATEGORIES

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)**</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil***</i>	<i>Total</i>
Exum	5	5	(2*)	0	1	8	19
Mitchell	7	10	(1*)	0	1	3	21
Meyer	6	3	0	1	1	4	15
Frye	3	9	0	1	1	5	19
Webb	5	5	1	0	0	8	19
Whichard	3	5	1	2	0	4	15
Parker	2	5	2(1*)	0	2	6	17
TOTAL	31	42	4(4*)	4	6	38	125

* Those opinions that are categorized as both "Criminal (Capital)" and "Criminal (Minor)" have been included under the "Criminal (Minor)" category in parenthesis.

** "Criminal (Minor)" includes all cases in which the victim was a minor.

*** "Civil" Includes all civil cases except worker's compensation and domestic relations.

TABLE IV
WORKING ALIGNMENTS

	<i>Exum</i>	<i>Mitchell</i>	<i>Meyer</i>	<i>Frye</i>	<i>Webb</i>	<i>Whichard</i>	<i>Parker</i>
<i>Exum (19)</i>							
majority		13	10	19	17	19	8
concur*		2	3	0	1	0	1
dissent*		5	9	0	2	0	0
<i>Mitchell (21)</i>							
majority	19		19	19	21	20	21
concur*	1		2	1	0	0	0
dissent*	2		1	2	0	1	0
<i>Meyer (15)</i>							
majority	14	15		13	16	16	15
concur*	0	0		0	0	0	0
dissent*	1	0		2	0	0	1
<i>Frye (19)</i>							
majority	19	17	16		18	19	14
concur*	0	0	0		0	0	0
dissent*	0	2	3		1	0	0
<i>Webb (19)</i>							
majority	12	18	15	16		16	15
concur*	1	0	0	1		0	0
dissent*	6	1	4	2		2	3
<i>Whichard (15)</i>							
majority	14	15	13	14	14		14
concur*	0	0	1	1	0		0
dissent*	1	0	1	0	0		0
<i>Parker (17)</i>							
majority	17	14	14	17	16	15	
concur*	0	1	0	0	0	0	
dissent*	0	2	3	0	1	1	

* All dissents include dissents as to sentence and dissents in part. They also include dissents written by the individual justices and dissents in which the justices joined each other. Concurrences are tabulated in the same way. Thus, the stated number of dissents and concurrences accurately state the number of justices who dissented or concurred, but not necessarily the number of such opinions filed. Where the numbers under majority, concur, and dissent add up to a smaller number than the total number of opinions a particular justice filed, one or more of the other justices did not participate in that opinion.

TABLE V
NUMBER OF AUTHORED DISSENTS*
BY EACH JUSTICE AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	0	1	(1*)	0	1	2	4(1*)
Mitchell	2	2	(1*)	0	0	5	9
Meyer	5	2	0	1	1	9	18
Frye	1	1	0	0	0	1	3
Webb	0	0	0	0	0	2	2
Whichard	1	0	0	0	0	0	1
Parker	0	0	0	0	0	0	0
TOTAL	9	6	(2*)	1	2	19	37

* Dissents include dissents as to sentence and dissents in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE VI
NUMBER OF DISSENTS* JOINED BY EACH JUSTICE AND
TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	1	1	0	0	0	4	6
Mitchell	0	0	0	0	1	0	1
Meyer	1	2	(1*)	0	0	0	3
Frye	0	1	0	0	1	1	3
Webb	0	0	0	0	0	2	2
Whichard	1	0	0	0	1	1	3
Parker	1	0	0	0	1	2	4
TOTAL	4	4	(1*)	0	4	10	22

* Dissents include dissents as to sentence and dissents in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE VII
NUMBER OF AUTHORED CONCURRENCES* BY
EACH JUSTICE AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	0	2	(1*)	0	0	0	2
Mitchell	0	1	0	0	1	0	2
Meyer	1	2	(1*)	0	0	3	6
Frye	1	1	0	0	0	0	2
Webb	0	0	0	0	0	0	0
Whichard	0	0	0	0	0	0	0
Parker	0	0	0	0	0	0	0
TOTAL	2	6	(2*)	0	1	3	12

* Concurrences include concurrences as to sentence and concurrences in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE VIII
NUMBER OF CONCURRENCES* JOINED BY EACH JUSTICE
AND TYPE OF CASE

<i>Justice</i>	<i>Criminal</i>	<i>Criminal (Capital)</i>	<i>Criminal (Minor)</i>	<i>Worker's Comp.</i>	<i>Domestic Relations</i>	<i>Civil**</i>	<i>Total</i>
Exum	0	0	0	0	0	0	0
Mitchell	0	1	(1*)	0	0	0	1
Meyer	0	0	0	0	0	0	0
Frye	0	1	(1*)	0	0	0	1
Webb	0	0	0	0	0	1	1
Whichard	0	0	0	0	0	0	0
Parker	0	1	(*1)	0	0	0	1
TOTAL	0	3	(3*)	0	0	1	4

* Concurrences include concurrences as to sentence and concurrences in part.

** Includes all civil cases except worker's compensation and domestic relations.

TABLE IX
4-3 DECISIONS

<i>Justices Constituting the Majority*</i>	<i>Title of Case</i>
Mitchell, Webb, Whichard, Meyer	Smith v. Smith
Mitchell, Frye, Webb, Whichard	Harrington v. Stevens
Meyer, Webb, Whichard, Parker	Piedmont Publishing Co. v. City of Winston Salem
Mitchell, Frye, Webb, Whichard	Collins & Aikman Corp. v. Hartford Accident & Indemnity Co.
Mitchell, Frye, Webb, Parker	Nelson v. Battle Forest Friends Meeting
Mitchell, Meyer, Webb**	State v. Lee
Mitchell, Meyer, Webb, Parker	State v. Williams
Exum, Frye, Webb, Parker	Stegall v. Stegall

* Name of author italicized

** 3-2 decision. Justices Whichard and Parker did not participate in the consideration or decision of this case.