



POLITICS & GOVERNMENT

A month after opting out, Mecklenburg clerk of court says she plans to seek 3rd term

BY MICHAEL GORDON

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After a tumultuous two years in which her office was “ravaged” by COVID-19 and she was accused of breaking the law in her handling of evictions, Elisa

Chinn-Gary announced in December that she would not seek re-election as Mecklenburg County clerk of court.

Now she's changed her mind.

The two-term incumbent, who leads the Mecklenburg courthouse's largest office, sent out emails this month announcing that she will be seeking a new four-year term. Chinn-Gary said she is bending to the will of the people.

"After much needed rest and restoration, I am preparing to file in February to retain my seat," she wrote. "I have been so moved by small requests and major pleas asking that I reconsider."

Filing for the \$130,688 position is scheduled to reopen Feb. 24. Assuming she joins the race, Chinn-Gary would be an overwhelming favorite to retain the job.

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Elissa Chinn-Gary was elected Mecklenburg County Clerk of Superior Court in 2014. In December 2021, Chinn-Gary announced she would not seek re-election. She changed her mind in January 2022.
NORTH CAROLINA JUDICIAL BRANCH

Though her office mostly remains in the background of the criminal justice system, the 53-year-old lawyer, wife and mother of two sons already is one of Mecklenburg's most influential elected officials. Her operation, with some 220 employees, is an integral part of legal matters ranging from marriages and divorces to first-degree murder trials and involuntary commitments. She has close relationships with many of the county's judges, and she has built a national reputation as an early and outspoken voice on the issues of [implicit bias in the courts and racial justice](#).

Yet her last two years in office have been chaotic ones.

The clerk's has been ground zero in the pandemic's assault on the Mecklenburg courthouse. One of Chinn-Gary's employees died from COVID-19, and the disease contributed to another worker's death, she says. At any given time dozens have been sickened or forced to quarantine, while others either resigned, retired or began working at home.

“It has ravaged us,” Chinn-Gary [told the Observer](#) in August.

The resulting shortage of clerical staff — along with a resurgent virus — continues to be cited as a factor in why the Mecklenburg courthouse still operates at less than half speed. Many credit Chinn-Gary with helping keep the courthouse partially operating even as she tried to limit the risk to her staff. Others hold her at least partially responsible for a slower-than-necessary resumption of trials and other procedures.

EVICTION BACKLOG

For the last half of 2021, Chinn-Gary and her office also were drawn into a controversy over the pace of the county’s evictions.

On Aug. 26, the U.S. Supreme Court ended the country’s ban on evictions during the pandemic. Within days of that ruling, landlord groups and their attorneys accused Chinn-Gary, whose office sets the eviction docket, of ignoring the [state law](#) that requires courts to hold a hearing within seven to 10 days of an eviction filing. They called on N.C. Chief Justice Paul Newby to intercede, which he has not.

In August, Chinn-Gary bristled at the accusation that her office was breaking the law, calling the allegation “unconscionable.” She said delays in the scheduling of eviction hearings resulted from a backlog of 2,600 cases caused by the pandemic, the Biden administration’s moratorium and the continued slowdown of the courts.

Trial Court Administrator Casey Calloway told the Observer this week that the backlog was eliminated before the end of the year. Despite a heavy rush of eviction cases filed since the lifting of the moratorium, Calloway said, the clerk’s office is scheduling eviction hearings in court within the required time frame.

A JUDGE’S FILES

More recently, Chinn-Gary was the subject of a critical story by WBTV over her handling of court files involving newly appointed Superior Court Judge

Kimberly Best.

[In its Jan. 11 report](#), the television station said its staff made multiple trips to the clerk's office in October and December to request the files for Best's divorce as well as a lawsuit the judge filed against a woman she claimed had had an affair with her husband. On each of those occasions, according to WBTV, members of Chinn-Gary's staff said the files were missing and they did not know where they were.

While the files from Best's 2018 divorce are routine, the documents for her alienation of affection lawsuit against the other woman contains highly personal and salacious details of Best's behavior during her marriage — including allegations of domestic violence against her then-husband. Best went to court in 2020 to have the lawsuit files sealed, but her request was denied by a judge.

The Observer sent several questions to Best through the Trial Court Administrator's Office but did not hear back.

Chinn-Gary confirmed to the Observer that the Best documents are being kept in her inner office instead of on the public shelves. She said they have always been available to the public, and were turned over to WBTV when the station's reporter, Nick Ochsner, had properly requested them online per the office's protocols during the pandemic.

Chinn-Gary declined to say when she moved the Best files to her office and how many other files she had stored there. She also declined an Observer request to inspect the files in person, saying that the law required her to make court documents available for inspection, not her office.

Asked if she had moved the files as a favor for a judge, Chinn-Gary said, "Absolutely not."

"My duties are to safeguard records and to make them accessible," she said. "(The Best files) were always accessible."

That said, Chinn-Gary said she believes files involving allegations against judges

and other elected officials can require “a higher need” of security from external and internal threats.

As an example of an internal threat, Chinn-Gary said she had to fire a member of her office staff in 2018 after he was discovered taking home public court files related to a lucrative trust account.

The day after the WBTB story appeared, the Observer made an online request to Chinn-Gary’s office to see the Best files. An Observer reporter found them waiting in the clerk’s office at the scheduled time, two hours later.

Beth Soya, a First Amendment lawyer in Charlotte, said the repeated failures by Chinn-Gary’s staff to make the files available to WBTB is a “clear violation” of the state’s public records law.

Where the files are stored is the clerk’s business, not the law’s, Soya added.

“In my opinion, it doesn’t matter that they had the files in the supervisor’s office. That’s fine as long as the public had access to them and that they’re properly indexed.”

Chinn-Gary said part of the problems locating the Best files was that her office’s staffing problems have forced her to move inexperienced workers into jobs they must learn how to do.

She said the normal spots for the files had paper markers bearing the initials “ECG,” meaning the files were in Chinn-Gary’s office.

The clerk said at least one of her employees who handled WBTB’s records request did not realize that the initials belonged to her.

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Michael Gordon has been the Observer's legal affairs writer since 2013. He has been an editor and reporter at the paper since 1992, occasionally writing about schools, religion, politics and sports. He spent two summers as "Bikin Mike," filing stories as he pedaled across the Carolinas.

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