

Black History Month

Honoring those who broke barriers and a look at the continuing push for equality

This Black History Month the National Center for State Courts recognizes some of the brave individuals who fought to break barriers and open the judicial system up to the Black community. These early accomplishments proved important to maintaining the legitimacy of the judicial branch and continuing buy-in of the court's authority from the communities the courts serve. Representation on the bench remains an issue for some jurisdictions. With societal events of 2020 creating a renewed commitment to racial diversity, including the court system, the National Center explores tried and tested methods for establishing a more inclusive bench.

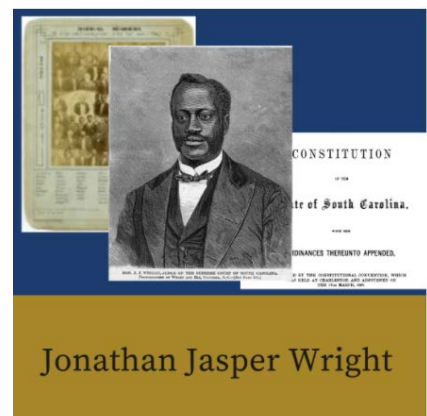


Macon Bolling Allen

An Indiana native, Macon Bolling Allen moved to Maine in 1835 to study law, becoming the first black lawyer in the United States when he was admitted to the Maine Bar in 1844.¹ Allen moved to Boston to practice but found the locals unwilling to welcome an unknown.² Allen served as a justice of the peace for two appointments before moving to South Carolina.³

Image Source: [Blackhistory.com](https://www.blackhistory.com)

A delegate to the 1868 South Carolina Constitutional Convention, Jonathan Jasper Wright was instrumental in shaping the judiciary provisions of the state's constitution.⁴ A popular South Carolina lawyer and senator, in 1869 the state senate nominated Wright to the South Carolina Supreme Court, filling an unexpired term and making Justice Wright the first Black lawyer to sit on a state court of last resort.⁵ Justice Wright was one of three justices on the South Carolina Supreme Court until his opinion in *Ex parte Norris* was used to force him from the bench as the Reconstruction Era ended.⁶ Justice Wright's reputation was finally restored over a hundred years after his unfair ouster from the court.⁷



Jonathan Jasper Wright

Image Source Wright: [Wikipedia](https://en.wikipedia.org)

Image Source S.C. Constitution: [Charleston County Public Library](https://www.charlestoncounty.org/libraries/)

Image Source radical members: [Library of Congress](https://www.libraryofcongress.org)

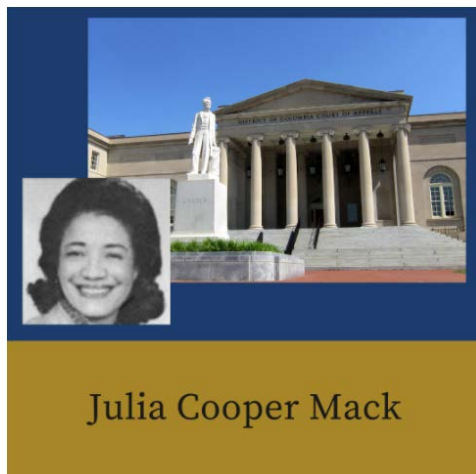


Jane Matilda Bolin

Raised by her father, Jane Matilda Bolin and her brother both followed in their father's footsteps by becoming lawyers.⁸ In 1931 Bolin became the first Black woman to graduate from Yale Law School.⁹ The next year Bolin was the first Black woman admitted to the New York state bar.¹⁰ Five-years later Bolin was hired as the first Black woman to serve as Assistant Corporate Counsel for the New York City Law Department.¹¹ In 1939 she was appointed to the New York Domestic Relations Court. Judge Bolin sat on the bench until 1979, when New York's mandatory retirement age required her to step down after forty years of service.¹²

Image Source: [Ignite](#)

Some might say Julia Cooper Mack was destined to be a trailblazer of Black American history. Mack's father's family were always free Blacks.¹³ One ancestor fought in the Revolutionary War.¹⁴ Another of Mack's ancestors, John Sinclair Leary, was the second Black lawyer admitted to practice in North Carolina.¹⁵ As a pharmacist, chemist, owners of a chain of drug stores, and a teacher, Mack's successful parents guided her to attend Hampton University before moving to Washington, D.C., where the Dean of the Howard University Law School encouraged Mack to pursue a career in law.¹⁶ After attending Howard, Mack went on to become the Department of Justice's first Black attorney, and later the first Black woman to represent the federal government at the Supreme Court.¹⁷ In 1968 Mack joined the Equal Employment Opportunity Commission before being appointed to the District of Columbia Court of Appeals in 1975.¹⁸



Julia Cooper Mack

Image Source Mack: [@danielleholly](#)

Image Source D.C. Court of Appeals: [Wikipedia](#)



Robert N.C. Nix, Jr.

Image Source: [Pennsylvania for Modern Courts](#)

Born in 1928 in Philadelphia, Robert Nix, Jr., attended Villanova University before attending law school at the University of Pennsylvania.¹⁹ After serving two years in the Army, Nix studied business administration and economics at Temple University before taking the Pennsylvania bar exam and serving as Pennsylvania Deputy Attorney General.²⁰ Nix left the Attorney General's office, forming a private practice with his father. Their firm went on to play an important role in the civil rights movement.²¹ In 1967 Nix was elected to the Philadelphia Court of Common Pleas.²² Judge Nix was elected to the Pennsylvania Supreme Court in a landslide in 1972 becoming an associate justice of the Pennsylvania Supreme Court.²³ He became chief justice in 1984, making him the first Black chief justice of any state supreme court.²⁴ From 1991 to 1992 Chief Justice Nix served as president of the Conference of Chief Justices, and he retired from the court in 1998.²⁵



Following his graduation from Santa Clara University, Martin Jenkins briefly played in the NFL as cornerback for the Seattle Seahawks football team before attending the University of San Francisco School of Law.²⁶ Upon graduating from law school, Jenkins worked for the Alameda County District Attorney's office as part of a groundbreaking program to diversify the office.²⁷ Jenkins moved on to serve as a civil rights attorney for the Department of Justice before being appointed to Oakland's municipal bench in 1989.²⁸ In 1992 President Clinton appointed Judge Jenkins to the Northern District of California, but the federal courts would lose Judge Jenkins in 2008 when Governor Schwarzenegger appointed Judge Jenkins to the First District Court of Appeal.²⁹ In December 2020 he was unanimously confirmed to the California Supreme Court, making Justice Jenkins the first openly gay state supreme court justice in the United States and the third Black man to serve as a justice on the California Supreme Court.



Martin Jenkins

Image Source: [Law.com](#)



The efforts of these pioneers helped so many others pursue careers in law and on the bench. However, merely remembering the efforts of those who came before does not do enough to honor their efforts and the hardships they faced. 2020 brought the hard truth of racial discrimination and bias that still occurs to the forefront. Courts across the country issued statements on racial justice following troubling events and began efforts to recommit to impartial and fair justice for all.³⁰ A commitment to fairness and impartiality requires the citizenry remain confident in the courts; however, research has shown where there is a demographic imbalance in the judiciary the citizenry may not believe “judges will treat them fair and impartially.”³¹ Data from the Brennan Center shows white men far exceed men of color, women of color, and white women as state supreme court justices.³² For jurisdictions with all-white supreme courts, the Brennan Center contrasted the makeup of the court with the population of people of color within the jurisdiction.³³

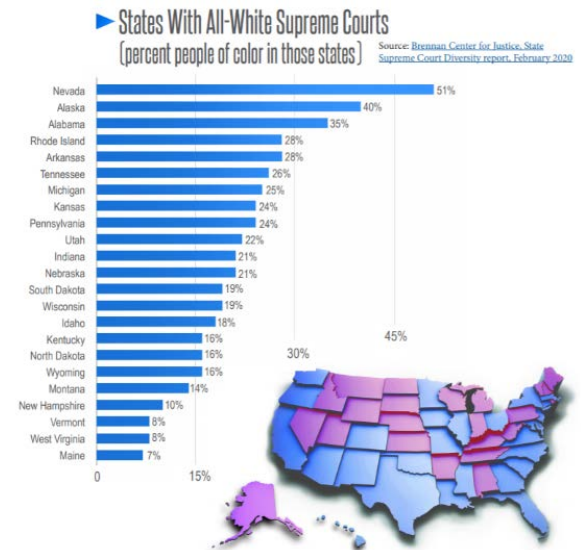
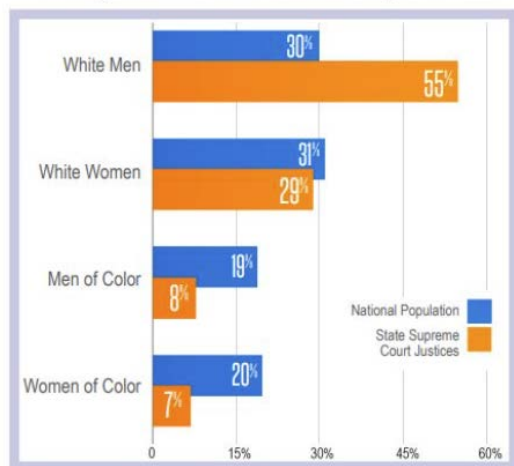


Image Source: [ABA Profile of the Legal Profession 2020](#)

► State Supreme Court Justices by Race, Compared With National Population



Source: Brennan Center for Justice, State Supreme Court Diversity report, February 2020

Image Source: [ABA Profile of the Legal Profession 2020](#)

And while 2020 was a year that brought racial justice and diversity to light for some, others already had processes in place to work toward a more diverse and equitable court system. According to 2020 report from the Brennan Center, California, Connecticut, Minnesota, North Carolina, Oregon, and Washington are the only states with a “supreme court bench where the percentage of people of color is higher than their representation in the state’s population as a whole.”³⁴ These states are providing a road map for other jurisdictions as judicial branches across the nation strive to better reflect the communities they serve.

The manner in which the aforementioned jurisdictions are achieving a diverse bench varies. For instance, Washington state’s Judicial Institute held the Bridging the Gavel Gap panel with judges from minority and underrepresented backgrounds in an effort to increase diversity on the bench.³⁵ Additionally, the governor of Washington, in conjunction with the Minority Bar Association, has set procedures in place to cast the widest spectrum of candidates when filling judicial appointments.³⁶

In 2009 the California Assembly Judiciary Committee produced the background paper *How Can California Increase the Diversity of the Legal Profession and the Judiciary*, recognizing that diversity brought increased access to justice.³⁷ California’s Judicial Council now has the Pathways to Judicial Diversity, a Judicial Council Initiative to promote diversity on the bench through seminars, mentors, and educational tools.³⁸ California also has an Access, Fairness, and Diversity Toolkit for courts.³⁹ Inspired by concerns of judicial officers and court personnel, the Advisory Committee on Providing Access and Fairness met with focus groups to create the toolkit and identify relevant educational materials for courts to use.⁴⁰ The bar associations also play a crucial role, working with the courts to be part of the solution, like the Contra Costa Bar Association’s Judicial Mentoring Program, which connects judges with those from diverse backgrounds who are considering a career as a judge.⁴¹

The Minnesota Judicial Branch Diversity and Inclusion Committee works to “advance efforts to eliminate bias from court operations, promote equal access to the court, and inspire a high level of trust and public confidence in the Minnesota Judicial Branch.”⁴² Included as part of Minnesota’s diversity plan is a community outreach program that has been in place since 2008, allowing the community to have conversations with judges and court personnel.⁴³

In Connecticut, the Strategic Plan for the Judicial Branch includes a commitment to “continue to study and be sensitive to different cultures, customs and socio-economic and educational backgrounds of the people it serves” as the bench continues to increase its diversity.⁴⁴ Part of Connecticut’s commitment to diversifying the courts is the annual Job Shadow Program allowing students to spend time one-on-one with a court mentor.⁴⁵

With the help of the State Justice Institute and the National Center for State Courts, Oregon undertook a four-month campaign to gather stakeholder input.⁴⁶ The campaign created four key themes that launched in January 2020, including embracing a diverse workforce. The plan required modifications in the face of the coronavirus pandemic, but the campaign structure allowed for modifications that permit Oregon to continue its mission of increasing public trust and confidence in their courts.

For those jurisdictions who would like to follow in the footsteps of California, Connecticut, Minnesota, North Carolina, Oregon, and Washington, the National Center for State Courts’ Racial Justice site provides the latest news and resources on racial justice.⁴⁷ The Brennan Center for Justice has produced two reports on judicial diversity, *Improving Judicial Diversity* and *Improving Diversity on the State Courts: A Report from the Bench*.⁴⁸

¹ Hon. Anna Blackburne-Rigsby, *Black Women Judges: The Historical Journey of Black Women to the Nation’s Highest Courts*, 53 How. L. J. 645, 662 (2010), https://www.nawj.org/uploads/pdf/black_women_judges_by_anna_blackburne_rigsby_howard_law_journal.pdf [https://perma.cc/8L2U-72LZ].

² *Id.*

³ *Id.* at 663.

⁴ Honorable Jonathan Jasper Wright, UNIVERSITY OF SOUTH CAROLINA, https://www.sc.edu/study/colleges_schools/law/internal/general_information/artwork/honorable_jonathan_jasper_wright.php [https://perma.cc/25QK-ADLL] (last visited Feb. 22, 2021).

⁵ Blackburne-Rigsby, *supra* note 1, at 664.

⁶ Honorable Jonathan Jasper Wright, *supra* note 4; Blackburne-Rigsby, *supra* note 1, at 664.

⁷ Blackburne-Rigsby, *supra* note 1, at 664.

⁸ *Id.* at 666-669.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Blackburne-Rigsby, *supra* note 1 at 672-73.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Euell A. Nielsen, *Robert Nelson Cornelius Nix Jr. (1928–2003)*, BLACK PAST, Dec. 7, 2016, <https://www.blackpast.org/african-american-history/nix-jr-robert-nelson-cornelius-1928-2003/> [https://perma.cc/8BQ8-23JZ] (last visited Feb. 22, 2021).

²⁰ *Id.*

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- ²¹ *Id.*
- ²² *Id.*
- ²³ *Id.*
- ²⁴ Robert N.C. Nix, Jr., PENNSYLVANIANS FOR MODERN COURTS, <https://www.pmconline.org/robert-nc-nix-jr> [https://perma.cc/4QLC-6VLG](last visited Feb. 21, 2021).
- ²⁵ Nielsen, *supra* note 19.
- ²⁶ Maria Dinzeo, *Martin Jenkins Confirmed to California's High Court*, COURTHOUSE NEWS SERVICE, Nov. 10, 2020, <https://www.courthousenews.com/martin-jenkins-confirmed-to-californias-high-court/> [https://perma.cc/UH28-KUAF].
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ *State Court Statements on Racial Justice*, NATIONAL CENTER FOR STATE COURTS, <https://www.ncsc.org/newsroom/state-court-statements-on-racial-justice> [https://perma.cc/4SRP-9VDT](last visited Feb. 21, 2021).
- ³¹ Daniel J. Crooks III, *Race and Gender on the Bench: How Best to Achieve Diversity in Judicial Selection*, 8 NW. J. OF L. & SOC. POL'Y 174, 175 (2013), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1103&context=njls> [https://perma.cc/SFH8-XCN6].
- ³² AMERICAN BAR ASSOCIATION, *ABA Profile of the Legal Profession 2020*, at 70, <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> [https://perma.cc/4PCD-GBBV].
- ³³ *Id.*
- ³⁴ Alicia Bannon, *State Supreme Court Diversity—February 2020 Update*, BRENNAN CENTER FOR JUSTICE, Feb. 20, 2020, <https://www.brennancenter.org/our-work/research-reports/state-supreme-court-diversity-february-2020-update> [https://perma.cc/E4PW-SPLL].
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- ³⁶ *Judicial Appointments*, WASHINGTON GOVERNOR, <https://www.governor.wa.gov/office-governor/official-actions/judicial-appointments> [https://perma.cc/RH6L-JB6Q].
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- ³⁸ *Pathways to Judicial Diversity*, CALIFORNIA JUDICIAL BRANCH, <https://www.courts.ca.gov/partners/judicial-diversity-toolkit.htm> [https://perma.cc/3FAR-M9RU].
- ³⁹ *Access, Fairness, and Diversity: Toolkit of Educational Resources for California Courts*, CALIFORNIA COURTS, <https://www.courts.ca.gov/partners/documents/Access-Fairness-and-Diversity-Toolkit-for-Courts.pdf> [https://perma.cc/V8VE-5PL8].
- ⁴⁰ *Id.*
- ⁴¹ *Judicial Mentoring Program*, CONTRA COSTA COUNTY BAR ASSOCIATION, <https://www.cccba.org/judicial-mentoring-program/> [https://perma.cc/K8L2-8LRT].
- ⁴² *Committee for Equality and Justice*, MINNESOTA JUDICIAL BRANCH, <https://www.mncourts.gov/Minnesota-Judicial-Council/CEJ.aspx> [https://perma.cc/TQ3P-P6M5].
- ⁴³ MINNESOTA JUDICIAL BRANCH, *Diversity and Inclusion Annual Report January—December 2019*, [https://www.mncourts.gov/mncourtsgov/media/scao_library/CEJ/3-13-20-2019-MJB-Diversity-and-Inclusion-Annual-Report-\(final\).pdf](https://www.mncourts.gov/mncourtsgov/media/scao_library/CEJ/3-13-20-2019-MJB-Diversity-and-Inclusion-Annual-Report-(final).pdf) [https://perma.cc/S7W9-F9BA].
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⁴⁸ Ciara Torres-Spelliscy et al., *Improving Judicial Diversity*, BRENNAN CENTER FOR JUSTICE, 2010, https://www.brennancenter.org/sites/default/files/2019-08/Report_Improving-Judicial-Diversity.pdf [https://perma.cc/B7JN-KZSU]; *Improving Diversity on the State Courts: A Report from the Bench*, BRENNAN CENTER FOR JUSTICE, 2009, <https://www.brennancenter.org/sites/default/files/Improving%20Diversity%20on%20State%20Courts%20a%20Report%20From%20the%20Bench.pdf> [https://perma.cc/42TW-VMLH].