

Supreme Court candidates face off in Kitsap

August 5, 2016

By *Andrew Binion* of the Kitsap Sun



Mary Yu

PORT ORCHARD — Education funding dominated the discussion at a state Supreme Court candidate forum hosted Friday by the Kitsap Bar Association, with some challengers questioning if the judiciary had overstepped boundaries in recent decisions and incumbents defending the work of the state's highest court.

Justices serve six-year terms and in case of a vacancy replacements are appointed by the governor. Candidates do not declare party affiliations.

Chief Justice Barbara Madsen's challenger is Greg Zempel, who was elected Kittitas County prosecutor as a Republican.

Zempel said the court has ignored long-standing precedent and lacks a criminal law expert.

"I believe the court has become too political and too unpredictable," he said.

Media reports on the election have noted that it is the first time in decades that all incumbents face challengers, and those challengers were motivated by court decisions on education funding and charter schools.

Although education featured prominently, it was not the only work of the court mentioned by incumbents. Madsen, who was elected in 1992 and who received nearly 64 percent of the vote in the three-way primary, rattled off a list of commissions the court has led to reduce bias, provide help for people who cannot afford to hire a lawyer and staunch the flow of children from the state's foster care system into the state's criminal justice system.

"These are concrete steps our court as taken to make justice real for real people," she said. Forty percent of children placed in the foster system end up in the state's jails and prisons, she said.

Madsen also defended the 2012 McCleary decision, approved 7-2, noting that the case had moved up through the courts. The McCleary decision found, in part, that the state was failing to meet its "paramount duty" of funding education and ordered the Legislature to increase funding.

"The Supreme Court has done exactly what its job is," she said.



Barbara Madsen



Greg Zempl



Mary Yu

The length of the forum did not allow in-depth discussion. With the luncheon format, the candidates gave a brief introduction and comments followed by questions from local attorneys. However, Justice Mary Yu said it was the first forum of its kind this election, and said it was the first time she was able to meet her opponent in person.

Yu, appointed in 2014 and running for her first full term, is a former King County Superior Court judge and said she had heard a wide variety of cases.

Yu came to the bench after the McCleary decision, but said she supported it "100 percent." Yu said the court had not intruded into the remit of the Legislature and had not mandated how public education should be funded, "only that it ought to be funded."

Yu's challenger, David DeWolf, a retired Gonzaga Law School professor, said he sees "overreach" in the courts in rulings on education funding, with the court asserting rights that are not enumerated in the state constitution. However, he said this election, unlike past elections, gives voters a substantive choice.

"This year it's not a beauty contest," DeWolf said, and contended that Yu bases her opinions on her own personal beliefs.

"The ends do not justify the means," he said.

Yu defended the court, saying it was hardworking and had integrity.

"It's not an ideologically driven court, which is the kind of court you do not want," she said.

Justice Charlie Wiggins, of Bainbridge Island, said he first ran in 2010 because he wanted to leave his children with a better state, but soon realized he was also responsible for the state's 1.5 million children. He said the McCleary decision was essentially holding the Legislature to its word.

"We said, 'Just do it,'" Wiggins said, adding that residents had waited 30 years as lawmakers commissioned "study after study."

Wiggins' challenger, Federal Way Municipal Court Judge Dave Larson, said he was running for the position rather than running against Wiggins. However, as a former Federal Way School Board member, he has been intimately involved in education funding and although he said he would not vote to overturn McCleary, he believed it needs to be fixed. He also had questions about the court's ruling on charter schools, which, in part, found the state's 2012 voter-approved charter school system unconstitutional because it diverted public money to organizations that did not have voter oversight.

"There's too much confusion out there and I want to hopefully reduce that," Larson said.



David DeWolf



About Andrew Binion

Andrew Binion is the law and justice reporter for the Kitsap Sun.

Facebook @a_binion andrew.binion@kitsapsun.com 360.792.9213