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February 12, 2020

WRITTEN COMMENTS SUPPORTING RETENTION ELECTION FOR JUDGES

Senate Judicial Proceedings Committee Bill Hearings 2/12/2020, 12:00 p.m.
SB 415, Circuit Court Judges – Election
SB 596, Judges - Selection, Election, Tenure, and Continuance in Office

House Judiciary Committee Bill Hearings 2/12/2020, 1:00 p.m.
HB 11, Judges - Election, Retention, and Mandatory Retirement Age
HB 518, Judges - Selection, Election, Tenure, and Continuance in Office

FROM: Ronald H. Jarashow, Former Anne Arundel County Circuit Court Judge

Background. I am a former Anne Arundel County Circuit Court Judge that lost my judicial appointment in the November 2010 election after being appointed in January 2010 by Gov. Martin O'Malley. I am personally familiar with the judicial election process, its burdens, difficulties, and ethical considerations as detailed below. I support changing the current contested election which is a **partisan** election by law – see the discussion below.

Judge Elections Not Like Any Other Election. At candidate forums, attendees want to hear from politicians – candidates for the General Assembly, Governor, County Executive, etc. Organizers seldom give judicial candidates time to speak. We are introduced and get to wave.

Judges Not Like Other Politicians. Circuit Court Judges are elected for 15 years unlike any other office on the ballot that is for a 4-year term. At the end of the 4-year term, voters evaluate whether to keep the elected official in office. That does not happen for judges. Seldom do judges appear on the ballot again.

County-Wide Election. A judge must run county-wide, not in a limited district. As a judge candidate, it is hard to raise sufficient money to conduct a campaign and inform all citizens about the selection process and qualifications versus a non-judge candidate.

Voters Do Not Know Judicial Candidates. In my 2010 election, there were 202,000 votes cast for Governor. In the down-ballot judicial election, it appears there were slightly more than 100,000 votes cast. I lost my judge appointment by 7% of the votes cast to a candidate who was supported by a political party. She reportedly never tried a case in court before.

Voter Confusion. Judges run on the “Judicial” party. But most often, I was asked whether I was a Democrat or Republican. As a sitting judge who is supposed to be impartial, I thought it was improper to declare I was in one party or the other. Yet a non-judge judicial candidate is not restricted in declaring affiliation with a political party. Further confusion occurs because Orphans Court Judges who are elected for 4 years also appear on the ballot with a party affiliation.

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Lawsuits By Judicial Candidates. Some judicial candidates file lawsuits against judicial election candidates or volunteers. *See, e.g., Rickey Nelson Jones v. Mary E. Barbera*, No. 1415, 2020 Md. App. LEXIS 65, at *1 (App. Jan. 24, 2020) (unreported) (the unsuccessful judicial candidate sued the Court of Appeals Chief Judge); *Claudia A. Barber vs. Ronald Jarashow*, D.C. Superior Court, case no. 2019 CA 006763 B (I was sued by the unsuccessful judicial candidate in the 2016 judicial election; the case is pending).

Personal Financial Burden. In several elections, appointed judicial candidates must contribute substantial amounts to finance the campaign for the county-wide election. One former Circuit Court Judge told me that she contributed approximately \$90,000 of her own money to her judicial campaign. I contributed a significant amount in 2010 to my judicial campaign.

Candidate Misconduct Has No Penalty. Judicial elections are overseen by a volunteer committee known as the Maryland Judicial Campaign Conduct Committee (MJCCC). This group has no authority to punish misconduct by a judicial candidate. They regularly accept complaints, analyze accusations of misconduct, and issue sanction reports. For example, the 2010 Anne Arundel County challenger was found to have violated judicial campaign rules by distributing misleading campaign literature on election day that mischaracterized her as being an appointed judge along with my co-appointee to the bench. That literature used our black and yellow campaign colors (instead of her campaign colors of blue and white) with her photograph and my running mate that made it appear as if they were the two appointed judges. The law imposes no penalties for misleading judicial campaign conduct. Attached is part of the 75-page MJCCC finding that the 2010 A.A. County challenger violated campaign standards.