

**SB630/HB778, Circuit Court Judges – Selection and Retention Elections
FAVORABLE REPORT REQUESTED**

Background. I am a former Anne Arundel County Circuit Court Judge appointed by Gov. Martin O'Malley in January 2010. I lost in a highly political, partisan November 2010 election. I worked on many judicial elections and am personally familiar with the burdens, difficulties, and ethical considerations of contested judicial elections.

Voters Do Not Know Judicial Candidates and Political Party Influence. In my 2010 election, 202,000 votes were cast for Governor and only about 100,000 votes were cast for Judge. I lost by about 7% to a candidate whose last name started high in the alphabet and who was endorsed by Governor Ehrlich's political party. Governor Ehrlich won 55% of the County vote. The judicial challenger never went through the application and vetting process. Reportedly, that challenger never tried a court case. The County Republican Central Committee did not interview or consider endorsing the two Governor O'Malley appointed judges even though we had bipartisan support. Six years later, in a contested judicial election, the Democratic Party Central Committee similarly refused to endorse the appointed sitting judges and refused to publish my law firm's endorsement in the Central Committee dinner program because some were Republicans.

Both political parties were wrong to inject political partisanship into judicial elections. The goal should be to support appointed, independently vetted persons. Both parties rejected that principle, relying on purely political partisan in refusing to support appointed sitting judges.

Lawsuits by Judicial Candidates. Some judicial candidates file lawsuits. *See, e.g., Rickey Nelson Jones v. Mary E. Barbera*, Jones v. Barbera, 2020 Md. App. LEXIS 65, 2020 WL 405452 (Md. Ct. Spec. App., Jan. 24, 2020, *cert. denied* 2019) (unreported) (the unsuccessful judicial candidate sued the Chief Judge). Lawsuit threats were made during my 2010 election.

Candidate Misconduct Has No Penalty. Judicial elections historically had been overseen by a volunteer committee known as the Maryland Judicial Campaign Conduct Committee (MJCCC). The MJCCC (now disbanded) had no authority to punish judicial candidate misconduct even though misconduct complaints were filed and it issued "sanction" reports. In 2010, the 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 blue and white campaign colors) 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. *See* <https://thedailyrecord.com/2011/01/13/asti-flyer-violated-campaign-conduct-standard-panel-finds/> ("...yellow-and-black Election Day flier was "likely to mislead" Anne Arundel County voters and therefore violated a standard of conduct that calls for "truthfulness and dignity" in judicial campaigns, an oversight panel said in an opinion released Thursday").

All oversight of judicial elections is not meaningful. Although the Maryland Rules have guides for judicial candidates, there is no enforcement or penalty mechanism.

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