Maryland Judiciary Should Not Have Been "Studying" When They Could Have Been "Remedying"

Commencing September 1, 2022 and continuing until September 1, 2023, the Maryland Courts set up a Workgroup to Study Judicial Selection. The purported purpose was to "perform a fair, balanced and exhaustive examination of the various methods of selecting and retaining trial judges throughout the country and make recommendations based on that study." The purpose seemed noble on the surface. However, the Workgroup's approach was inherently flawed, doomed to give a flawed recommendation. Specifically, studying flawed methods when your method is flawed is a wasteful endeavor.

Nationwide, we already know that despite increased diversity in the legal profession, white men continue to be disproportionately represented on the bench (compared to their population in America), and both merit selection and judicial elections have failed to produce meaningful diversity. *SEE. Brennan Center for Justice: "Improving Judicial Diversity", C. Torres-Spelliscy, M. Chase, E. Greenman.* Further, in Maryland, diversity on the bench falls to about 9% once Baltimore City and Prince George's County are set aside. *SEE. Maryland Judiciary: Distribution of Judges – Race and Sex (3/14/23).* However, Maryland is currently in the top 4 states in America regarding diversity (about 48%). Therefore, there is no need to "study" judicial selection since it is abundantly clear what it is, i.e., non-diverse.

This Workgroup to Study Judicial Selection recommended eliminating contested elections for the circuit court but failed to see how **incorrect their recommendation was.** It was a grave mistake to study flawed methods while continuing the use of one of them in the present. When objectively-better-qualified African Americans (i.e., substantially superior legal knowledge, experience, and scholarship) applied for judicial vacancies in Maryland, white applicants were repeatedly put on the Bench over them. Is "studying" flawed methods more important than diversifying appointments, regardless of methods? Of course not, and that fact was missed by the Workgroup to Study Judicial Selection.

On November 28, 2022, the author attended the Public Hearing held by this Workgroup to Study Judicial Selection. He heard numerous judges condemn contested judicial elections as dangerous, distracting, polarizing, and unethical. Such complaints were without merit due to {i} the avoidance of the problems and {ii} maintaining ethical behavior (e.g., not personally campaigning in public, maintaining maturity, and behaving ethically). Nearly all of the judges stated that they did **not** know the solution to the existing non-diverse judiciary. Instantly, that statement by the judges of lacking knowledge formed part of the author's presentation. When finally called to give testimony, he informed the Workgroup that for every wrong there is a remedy. The remedy for a non-diverse judiciary is selecting the imminently better-objectively-qualified non-white applicants[1] for upcoming judicial vacancies until the diversity percentage in the state is equaled. The silence from those present after this revelation was both stark and revealing. It was as if this simple remedy was not worthy of consideration despite the long, sad, history of unjust racial exclusion on the Maryland Bench. Simply put, racial wrongs can only be effectively corrected with racial remedies. That is pure justice. The Maryland Judiciary had no business wasting time "studying" when that time could have been used "remedying." In one of the most diverse states in America, taxation without representation must never be allowed to continue, particularly when it rests on a long and entrenched history of De facto Racial Discrimination.

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[1] Objectively-better-qualified non-while applicants exist since, for example, the author applied for several judicial vacancies on the circuit court, got recommended as qualified for the judgeship by multiple Bar Associations, and did not even get a recommendation to the Governor. This was so despite the author {i} possessing decades of legal experience and knowledge in 18 different areas of the law (including being an NFL and NBA Agent), {ii} having legal articles published nationwide at least seven times, {iii} being a Continuing Legal Education Panelist 10 times at 10 different bar conferences, and {iv} having the U.S. Supreme Court grant his Writ of Certiorari, reverse 3 lower courts, and grant all requested by the author. Those candidates put on the bench to maintain the status quo did not possess anything near the legal knowledge, experience, and scholarship possessed by the author. **This is the kind of unjust, unlawful, and shameful history SB 630 and HB 778 ignore!**