

SPEECH

By

JUSTICE ELIZABETH A. WEAVER (retired August 2010)

Upon receiving Don Jennings Award Manistee County Democratic Party Annual Award Dinner, Sept 24, 2011

NEED FOR REFORMS FOR AND TRANSPARENCY AT MICHIGAN SUPREME COURT

Some of you asked me during the reception about how I liked retirement. I answered: “I LOVE IT.” It’s now over a year since I departed the Court. I’ve been very busy. Like most retirees, I don’t know how I had time to do the court work and I don’t miss it a bit.

I do continue to serve by appointment of Governor Granholm until 2014 as chair of the Task Force on Child Abuse and Neglect as I have since its establishment by Governor Engler in 1991. Also I continue to serve until next June on the Committee on Juvenile Justice as I have since the 1970’s by appointments of Governors Milliken, Blanchard, Engler and Granholm.

In retirement I had hoped and still do, to play more golf, tennis, gardening and catch-up reading I haven’t yet. (But hopes springs eternal!!)

I did travel more and got to Florida, California, and Coeur d’Alene Idaho in the winter and early spring even though I had to take time to defend myself in March through June from the latest bogus political attacks launched through the Attorney Grievance Commission by former Justice Corrigan, now Governor Snyder’s Director of the Dept of Human Services. They were all dismissed by the AGC just as the exact same attacks by Justices Corrigan, Markman and Young were dismissed by the Judicial Tenure Commission September 2010. You can read all about those episodes on my website: www.justiceweaver.com.

You know I am originally from New Orleans, –born, raised, educated and practiced law there. I still have a little accent—dropping my R’s like water, mother, father. And I love a good time and parades. Tonight I brought a picture (framed and given to me by the Independent Women of Leelanau for Democratic Action) of one of my favorite things I do---Lead the Kazoo Band in the Glen Arbor 4th of July parade. (I hope it gives you a chuckle.)

When Judy Cunningham invited me and said I could speak to you about the serious topic of the NEED FOR REFORMS FOR AND TRANSPARENCY AT THE MICHIGAN SUPREME COURT, I couldn’t resist the privilege coming tonight to be with you.

It’s a bit unusual for a Democratic Party to officially honor a Republican-nominated Supreme Court justice, even a retired one.

But I've reasoned that you, the good grassroots Democrats of Manistee County, appreciate and desire truly independent, nonpartisan Supreme Court justices and that when you considered my service record you saw me as one.

I humbly accept your honor and award. Thank you.

You know I believe we all want a Michigan Supreme Court in which we can have **trust and confidence**.

Do we NOW have such a Sup Court? From my almost 16 years experience, I say NO.

Can we EVER have it? I believe, YES. (or I wouldn't be here tonight.)

But to have such a Court,/ we need a Supreme Court of seven (7) **independent justices** **about whom we have *sufficient information to hold each justice accountable for his/her individual and collective performance and administration of the people's judicial business.***

What is an *independent justice*?

An *independent justice* is not agenda-driven and does not hold to and promote political party lines, or philosophies, or ideologies. An *independent justice* is dedicated to the rule of law, is impartial and courageous, exercises judicial restraint and self-discipline, applies common sense, and is wise, honest, fair and just, kind and charitable, orderly, civil and professional, open, not secretive, and non-partisan.

HOW can we get such a Supreme Court in which we can have trust and confidence?

First, we must find, develop, promote, and support to achievement SOLUTIONS to two (2) critical, chronic, continuing problems for and at the Michigan Supreme Court. They are:

1. The very obvious need to **reform the system of selection of Supreme Court justices** in order to make much more likely *truly independent justices* are elected and appointed.
2. The less obvious, but equally or even more important, need for **transparency at the Supreme Court -- transparency to eliminate the unnecessary secrecy under which the Supreme Court operates** in order to make much more likely *the prevention of the misuse and abuse of the justices' huge powers of interpretation, discretion in decision-making and administering the operations of the Court itself and its offices (State Court Administrator Office (SCAO), commissions (Judicial Tenure*

Commission (JTC) and Attorney Grievance Commission (AGC) and boards (Board of Law Examiners).

Unless *unnecessary secrecy* is eliminated, reform of the justice selection system (processes) will be futile. Selection reform alone will not solve the problems of and at the Michigan Supreme Court.

Our **deeply flawed dual system of selection** --- of election and appointment of justices--- allowing for political party nominations, exorbitant campaign spending (millions of dollars spent on often deceitful campaigns)—untimely reported or not reported at all—and ignoring geographic diversity does not advance the election or appointment of *independent justices*.

The flawed system produces power blocks of justices usually joining together with a majority of 4 (or more) votes to promote AGENDAS – agendas of:

- Political Parties and Special Interests
- Personal Interests, Philosophies and Ideologies
- Biases and Prejudices.

Further at present **all 7 justices live in only three (3) counties**: Wayne, Ingham, and Oakland—the “Detroit/Lansing beltway.” Those three (3) are home to just 34% of Michigan’s 10 million population. The remaining 66% (over 6 million) citizens in the other 80 diverse counties (very different from the Detroit/Lansing beltway) are left without even one(1) voice out of the seven(7) justices. And adding insult to injury, 3 of the 7 justices come from the same Detroit law firm.

As to **exorbitant campaign spending**, at least 11.1 million dollars was spent on the 2010 Supreme Court justices’ campaigns. Of that, the candidates raised and spent 2.4 million. So, at least 8.7 million was spent by outside groups including the political parties. And, much of it is untraceable, unidentifiable, unaccountable, deceitful spending.

Further *Unnecessary secrecy* allows for the misuse and abuse of the Supreme Court’s huge powers of interpretation and discretion in decision-making and power of administrating (too often unjustly and unfairly) the operations of the Court itself and its offices (State Court

Administrative Office (SCAO), its commissions (Judicial Tenure Commission (JTC) and Attorney Grievance Commission (AGC) and its boards (Board of Law Examiners).

An example of this misuse and abuse of the Supreme Court power resulting in the unfair and unjust treatment of Kent County Judge Steven Servaas. It's described in my lead opinion in his case and on the Internet.

Every citizen should go to my website --- www.justiceweaver.com --- and listen to the unannounced, ambush visit from the Judicial Tenure Commission (JTC) director and a State Police officer that Judge Steven Servaas experienced (as recorded by the State Police officer). There you can hear the JTC director threaten “to drag (Judge Servaas’) name through the mud” unless he agreed to resign by 9 a.m. the next morning. It is an example of TYRANNY. ...a tyranny condoned by 5 Supreme Court justices when they refused to investigate or have investigated the egregious conduct of the JTC director in the Servaas and the Brady v. Attorney Grievance Commission matters.

Unnecessary secrecy is the crux of the problem. It allows to take root and grow the worst propensities in human nature—hatred, lust for power, revenge and deceit. *Unnecessary secrecy* enables and facilitates people, even good people, to do bad things.

While some justices, sometimes even a majority of the Court have exhibited some of the worst propensities in human nature, clearly Michigan Supreme Court justices, even when kind, collegial, charitable, orderly and professional, should not “go along to get along” while doing the people’s business.

Justices must be free to fulfill their DUTY TO THE PEOPLE—to inform them of what they need to know—no more, no less—as the justice deems necessary, about not only what the Supreme Court decides, but how, when, and where.

Canon 3A(6) of the Code of Judicial Conduct (which I always followed) sets the proper standard for temporary secrecy for pending and impending proceedings. There should be no GAG ORDER as the majority of the Michigan justices adopted to attempt to keep any justice from speaking to the public FOREVER about the decisions, performance, and operations of the Court.

The Michigan Supreme Court should not be a Secret Club. Instead it should consist of seven (7) truly independent justices who act in a transparent, open, accountable, independent manner. It should be the SUPREME EXAMPLE of conducting government business publicly, openly, fairly, orderly, professionally and justly.

It's a simple fact. An uninformed and misinformed public cannot make wise decisions on the suitability and performance of justices and the Supreme Court. As long as there is unnecessary secrecy, no accountability can exist.

Now for Solutions---

The needed solutions to solving and preventing the problems and misuses and abuses of the powers of interpretation, discretion and administration at the Supreme Court and its offices (SCAO), commissions (JTC and AGC) and boards are:

- Reform of the Selection of Justices System and
- Elimination of the Unnecessary Secrecy by increased Transparency.

Here are the proposed solutions for the needed reform of our dual system of selecting Supreme Court justices to make more likely selection of *independent justices*. They are **6 specific proposals for reform, a 6-point plan** that does *not eliminate* our dual system of electing and appointing Supreme Court justices, but *reforms* it. The proposed SOLUTIONS grew out of common sense and my more-than 35 years' experience as a judge, justice and chief justice. Four (4) of these proposals require legislature action and only 2 constitutional amendment. They are:

1. **Provide no political party nominations for elections.** Supreme Court candidates would earn a spot on the ballot by petition—the same way trial and Court of Appeals judge candidates do.

2. **Provide election by district.** The state should be divided into seven (7) Supreme Court election districts with one justice coming from each district.

3. **Provide public funding.** Change tax check-off for money designated for gubernatorial campaigns to be a check-off for Supreme Court justice campaigns.

4. **Require transparency and accountability in campaign finance reporting requirements.** Allow no secret or unnamed contributors. This would involve real time reporting (and within 48 hours for all elections).

5. Achieve rotation in high office by limiting to only one term of a maximum of 14 years for any justice, and a justice never would be eligible for reelection or appointment.

6. Establish for the appointments process, a Qualifications Commission composed of all stakeholders in the justice system.

You can view the reasons for and the specifics and details of the six (6) point plan on—and copy it from—page one (1) of my website <http://www.justiceweaver.com>.

Finally, I hope you are convinced of the need for reforms for and transparency in the Michigan Supreme Court and you are inspired to want to act to fix it. You can contact me with any suggestions, criticisms, or ideas at my email: **justiceweaver@centurytel.net**.

It is time --- to stop counting on our elected and appointed officials, special interests, the press, the media and “just anybody else” to lead in the preservation of our vital institutions like the judiciary and the Michigan Supreme Court.

It is time --- for everyone of us to take individual responsibility, to take the lead—to educate ourselves, our families, friends, neighbors, co-workers, local county, city, township, state officials, the press and the media, to recognize the problems and the need for reform at and transparency in the Michigan Supreme Court, and to join with others who have done the same, to propose and pursue to achievement the solutions through legislation and constitutional amendments in order to correct the problems and meet the needs.

It is time to --- **Do Right and Fear Not.**