

November 22, 2010

PRESS RELEASE

Statement from Retired Justice Elizabeth A. “Betty” Weaver

Imagine that! I have been censured by the Michigan Supreme Court.

Now, what, exactly does that mean? The first two definitions in my dictionary relate it’s a “1. strong or vehement expression of disapproval” and “2. an official reprimand, as by a legislative body of one of its members.” Because the action to censure me was taken during the official administrative business of the court, and because it’s delivered on Court letterhead and ascribed to by five of the seven Justices, I take this as an official action.

But this word “censure” carries more meaning than just that from my dictionary. It has a specific legal and constitutional meaning because it is used in our state’s Constitution:

Article VI. Section 30, Paragraph (2) provides:

“On recommendation of the judicial tenure commission, the supreme court may censure, suspend with or without salary, retire or remove a judge for conviction of a felony, physical or mental disability which prevents the performance of judicial duties, misconduct in office, persistent failure to perform his duties, habitual intemperance or conduct that is clearly prejudicial to the administration of justice. The supreme court shall make rules implementing this section and providing for confidentiality and privilege of proceedings.”

In this action—as in so much else that it has done in recent years—our Supreme Court has been precipitous and acted outside the Michigan Constitution or the Code of Judicial Conduct. The important part of the above-quoted passage is “On recommendation of the judicial tenure commission....”

You need to know that didn’t happen. I received no notice of any proceedings against me or any recommendation of the judicial tenure commission to the Supreme Court to censure or discipline me in any way.

What did happen is that on Wednesday, November 17, 2010, five (5) of the seven (7) justices of the Michigan Supreme Court violated the Michigan Constitution.

These five justices—Chief Justice Marilyn Kelly, and Justices Michael F. Cavanagh, Maura D. Corrigan, Robert P. Young, Jr., and Stephen J. Markman—signed a letter of censure and sent it to me. I found it on my doorstep Thursday. Further, they emailed the contents of their letter.

It's notable that Justices Diane M. Hathaway and Alton Thomas Davis did not sign the letter.

Further, Justice Hathaway added and signed the following statement: "Because I respect the Court and the integrity of the decision-making process, I do not sign this letter. In my opinion, issuing a formal censure, without any adjudicative proceeding, is inappropriate and disregards an individual's due process rights."

Justice Hathaway can rest assured that I have violated no law, nor any of the Code of Judicial Conduct. In short, I have done nothing wrong. I have every right to do what I've done; I intend to do more.

And as much as I think openness at the Court is appropriate, I did not disseminate the censure to the news media because I wanted to see just if and how this news would come out. So, how did it come to you? Through what channel, if not through me? Ah, yes, the Court itself. This is a part of what I call error exposing itself.

As I see it, these five Justices have made public their obviously unconstitutional and unjust attempts to censure my free speech, even as a retired Justice. This is not the first time they've done so, and had they simply said they found my actions offensive or repugnant in letting you know about the character of Justice Robert Young and incoming Justice Mary Beth Kelly, and other matters at the Court, I'd have had no issue or complaint; their opinions are their own. But when they use formal legal sanctions—as they have done here and as they have attempted in their illegal "gag order" of 2006—you have to recognize that something is seriously wrong, and it is not me.

As for yourselves, are you better off for knowing or would you prefer to remain in ignorance of the actions and the methodology of our Supreme Court? Are you better or worse informed to know that the likely new Chief Justice has used racial and sexual language during the course of his business at the Court?

Speaking out to warn you has never been a personal campaign against these five Justices, certainly not against Justice Young. I have long thought highly of his abilities and I still do; his deeds are another matter. My speech and writing is about the actions of this majority of Justices and the cloak of unnecessary secrecy with which they have chosen to surround themselves as they undertake YOUR business. (And as you've seen, it's secret until they don't want it to be.)

I often have said that their ill-conceived acts are unworthy of them. I do so again in this case. It is another example of why the operations of the Michigan Supreme Court and the performance of some of its Justices, its state court administrative office, its judicial tenure commission and attorney grievance commission need investigation and reform.

For much of last 10 years of my almost 16 years as a Justice of the Supreme Court, I worked from within with little success to reform the Court for it to become less secret, more transparent and open, fair, just, orderly, and professional. My concern is that the Court, as it now operates, is driven by special interests, partisan and personal agendas, and ideologies. This Court is undeserving of the trust and confidence of the public.

You can tell that at least five Justices of this Court are more than passing nervous about other things I might make public. I have promised to open my files to those who are truly interested in understanding what's gone on at the state's High Court. And those Justices who see my work as worthy of censure must know that I have kept a lot of detailed records, something I was prompted to do when they first launched the campaign in 2003 to discredit me. It's possible that they may want to censure me again...and again. I hope they won't, but if they do they should pay attention to the Constitution. And they need to remember that the first and only time (as far as I know) they complained about me to the Judicial Tenure Commission (this past April) it all came to naught. They also might keep in mind that their actions are likely to be very closely examined at the federal level.

Throughout, I have tried to act in the best interests of the people of this state and always—ALWAYS—to tell the truth. Here's my continued pledge: as a retired Justice I will work and speak out as long as there is potential for success in reforming Michigan's dual system of electing and appointing Supreme Court Justices and for reform of the operations of the Supreme Court and its offices and commissions.

As for this latest attempt against me, this censure, I will continue to "Do right and fear not."