

Don't base judicial vote on a single case

Getting a large group of lawyers to agree on anything is no small task, so the Indiana State Bar Association poll of its members that shows more than 80 percent of the responding lawyers support the retention of the two Indiana Supreme Court justices and four Court of Appeals judges on the ballot in November is truly remarkable.

This overwhelming support for judges is not based on winning or losing cases but rather on the manner in which each judge approaches cases and treats the lawyers and litigants.

I've had the privilege of arguing cases before all six of the judges and have lost more often than I've won. Nonetheless, I strongly support their retention because each has a respectful demeanor and proven record of impartiality, thoughtfulness and hard work. Win or lose, litigants and lawyers know their cases were carefully and fairly considered before Justices Steven David and Robert Rucker and Judges John Baker, Michael Barnes, Paul Mathias and Nancy Vaidik.

Because judges make hundreds of decisions each year on a variety of difficult and controversial issues, sometimes a decision may cause a stir. Like some others, I took issue with parts of the Barnes decision written more than a year ago by Justice David. I raised those concerns in a friend-of-the-court brief filed on behalf of a group of legislators. In response to that and other briefs, the court issued an opinion that clarified the ruling, which helped pave the way for the General Assembly to make modest changes to Indiana's self-defense statute after a great deal of discussion and debate.

Whatever one's opinion of the Barnes decision, that series of events demonstrates how each branch of government



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can appropriately exercise its role in resolving important issues. Basing a retention vote on the Barnes decision — or any other single case — fails to consider the impressive and impactful work Justice David has done since joining the court more than two years ago. Justice David has written or participated in more than 100 Supreme Court oral arguments and opinions as well as deciding which of more than 1,000 Court of Appeals' decisions the Supreme Court should review. He has taken an active role in helping to ensure that our system of justice is truly just through committees like the Juvenile Detention Alternatives Initiative, which works to minimize the detentions of juveniles that result in negative consequences both for public safety and youth development. He has served as an ambassador of the court by speaking with students, community groups and lawyers on hundreds of occasions.

Unlike the barrage of 30-second ads for political offices, little is written or broadcast about the judicial retention candidates. And in a "yes" or "no" contest, unfortunately a few vocal "no" advocates may dominate a discussion. When deciding whether to support a judge's retention, taking a few minutes to review the retention website (www.courts.in.gov/retention) or talking with a lawyer familiar with the judges' work can yield invaluable information. This information, not a decision in a single case, led the vast majority of State Bar members to support the retention of all six of the judges on the ballot.

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