



IT'S YOUR TURN TO JUDGE THE JUDGE

JUMPING IN

Several people have united to try to replace Judge James Herndon as District Judge. After some research and thoughtful consideration, I have decided to join that effort.

WHY TWO OPPONENTS?

Usually, if judges are perceived to be doing a good job no one will challenge them. In the State of Idaho there are thirty-nine District Judges up for election this week. Thirty-seven of them are uncontested. Out of the remaining two who are being challenged, one of them is in our own backyard in the 7th District. What I found interesting was that two challengers, Darren Simpson and DaLon Esplin, have decided to jump into this race. This is unusual, and begs the question, "Why, with so many judges running unopposed, do two highly respected attorneys feel Judge Herndon is vulnerable?" I decided to ask people I trust in the legal community as to their opinions about James Herndon. Several people helped me in this effort. Most of the individuals we spoke to were attorneys, judges, elected officials and community leaders.

We heard stories of mistreated clerks, arrogance from the bench, inconsistent rulings, and Herndon's curious habit of appearing to fall asleep during trial.

NOT MEASURING UP

What we learned from those discussions helped me decide to become involved in this election. Most told us something like, "Officially I am not supposed to comment, so 'officially' I am neutral, but off the record, I will tell you how I really feel ..." After that, the comments varied in intensity and content, but the overwhelming majority expressed a hope that Herndon would soon be replaced. We heard stories of mistreated clerks, arrogance from the bench, inconsistent rulings, and Herndon's curious habit of appearing to fall asleep during trial. As one attorney put it, "He clearly does not measure up to the standard of the other four Judges in District 7: Gregory Anderson, Brent Moss, Jon Shindurling, and Richard St. Clair."

DO YOUR OWN SURVEY

I realize a survey is not of much value to the public if you are not allowed to identify the participants and quote them verbatim. Therefore, no one should base their voting decisions on our unofficial survey. I asked my own questions to help me make a decision about James Herndon. The answers convinced me, but they should not convince anyone else. I'm only hoping that they will raise enough questions in people's minds to convince them to take an interest in this race, do their own personal research, examine Herndon's record, make up their own minds, and vote accordingly.

SPEAKING OFF THE RECORD

One question I asked the attorneys was why they were so adamant about keeping their comments "off the record." Most were concerned of having to appear before Herndon in the future. They feared that Herndon would learn of their comments. There was a feeling that, given the chance, this judge might take the opportunity to get even. These concerns solidified my resolve to

raise awareness of this race. People deserve a competent, unbiased judge who is committed to fairness in the courtroom. If a judge lacks these qualities we should get a better judge.

DISQUALIFICATIONS

Other things we learned convinced us further. Before a case is assigned to a judge, the attorneys on each side can ask that a particular judge not be assigned to their case. Several of the attorneys we talked to told us that Judge Herndon's decisions are so unpredictable and inconsistent that they automatically disqualify him from hearing any of their cases, especially if the case is complicated or will require a judicial ruling rather than a jury verdict.

LIBERAL VS. CONSERVATIVE

To be fair, a few attorneys we talked to support Judge Herndon. But when we examined who was for Herndon and who spoke against him, it became apparent that the "for's" and "against's" appeared to break down along party lines. The more liberal attorneys seem to be for Herndon and the conservative attorneys seem to be in favor of replacing him.

TAKING SIDES

We do not claim to know why Herndon's base seems much stronger among liberals than conservatives. We have not had time to research that. It could be because some people feel Herndon has a reputation for being soft on serious crime. Of course, one argument often forwarded by more liberal thinking persons is that because criminals are often victims of their childhood, or of other circumstances, they should not be held accountable. Several of Herndon's decisions appear to indicate that he supports that concept. (Review actual cases at www.truthandjusticeforidaho.com) But it is doubtful Herndon's alleged reputation for being soft on crime accounts for all of the apparent polarization that he has created over the years. For whatever reason, James Herndon's actions and decisions from the bench over the last 20 years have caused him to lose favor with conservatives and gain favor with liberals. Clearly a judge should be impartial as to whether plaintiffs or defendants are Republicans, Democrats, conservative, or liberal. The polarization around Judge Herndon gives cause to take a close look at his record to try to discover why so many are opposed to his re-election.

FORM YOUR OWN OPINION

Our survey was an informal and imperfect survey, but it caused us great concern. We hope people will not take our word for anything. We only hope that people will value the Judicial System enough to do their own research, and ask their own questions of people they know and trust, in the legal community. The best people to talk to are people in Bingham County where Herndon has his home office. I believe Darren Simpson or DaLon Esplin would do a much better job than James Herndon, but my opinion really doesn't count here, nor should it. But if you do your own research and get out to vote, your opinion might elect a new judge!

Frank J. VanderSloot