

Judge Barnes Should Not Resign

On March 21 my message to the community was entitled "50% Up for Election: Partisan Influence or Voter Choice?" The commentary cautioned the public about the way partisan forces were shaping Bay County's historical judicial elections this year. It explained how only incumbent judges - - and no other elected officials - - have their incumbency noted right on the ballot, and, unfortunately, the distinct advantage such ballot designation gives sitting judges.

Exactly one month later, on April 21, Governor Jennifer Granholm appointed Jennifer Barnes - - a local attorney and one of five lawyers who filed nomination petitions to replace retiring District Judge Scott Newcombe - - as the new judge. The abrupt and unexpected appointment of Barnes was made before Mr. Newcombe's retirement date of May 31, and before the last day he actively worked on April 30, and without the usual procedure being followed when a judicial appointment is made by the governor, with applications from lawyers solicited and interviews made by the state bar.

Suddenly, my commentary published a month earlier took on new meaning and relevance. The partisan influences blowing in the wind were even greater than what I had sensed.

"It's a farce and a joke that [Barnes] got appointed," protested Steve Jacobs, a pack member/contender for Scott Newcombe's vacant seat. "Governor Granholm is trying to hijack...a local judgeship" fumed Attorney Thomas Bock in a People's Forum letter, accusing Ms. Barnes of being a "willing accomplice" in a plan to remove the voters' right to elect their next district judge from "an even playing field." Labeling it as "bare-knuckle, thug politics," Mr. Bock claimed the timing of the appointment was "diabolical," and an effort to throw the election in favor of the newly appointed judge because her incumbent status will now be noted on the ballot she will share with her four male opponents.

Mr. Bock went even further, though, suggesting that Ms. Barnes drop out of the judicial race entirely since, "at this stage, that is the only way she can prove herself worthy to be a judge. She must give up the job she craves to show she has the integrity of being a judge," Bock argued. It's anyone's guess why he reacted so vehemently.

So-o-o, the newly appointed judge must resign her position before she even assumes her duties to prove herself worthy to be a judge, according to Mr. Bock, and "to show she has the integrity to be a judge." Does this make sense? I think not. How would anyone appointed to be a judge ever serve as one if they had to immediately quit the job "to prove their integrity"? Jennifer Barnes's acceptance of her appointment does not call her integrity into question anymore than Dawn Klida's acceptance of her appointment as a judge six months earlier. Yet no one is calling for Judge Klida to step down.

A couple days after Barrister Bock's call for Ms. Barnes' resignation in his Forum letter, the Times, incredibly, embraced his twisted logic in an editorial entitled "Resign the Appointment, Judge Barnes, and Fly toward Election with the Other Legal Eagles." In reference to Mr. Bock, it stated "He's calling for Barnes to prove her integrity and resign. We agree."

But why should Jennifer Barnes resign her new job? And how is it somehow unethical if she doesn't? Isn't that suggested when it's argued that her resignation is needed to prove her integrity? It's been suggested that Jennifer Barnes had some involvement in the timing and method of her appointment. But there is no evidence of that.

Does anyone really think the rhetoric would be so shrill if any of the four men in the group of five lawyers vying for the position had received the sudden appointment instead? Would there be demands for *his* resignation? We don't know why the governor chose to appoint Barnes. Maybe Barnes had been active in the governor's past political campaigns. Maybe, as a lame duck governor, she saw an opportunity to make her second appointment of a female judge in Bay County in a scant period of some six months. Or maybe, just maybe, it was because the governor saw an opportunity to appoint someone she believed was talented enough to receive the incumbent advantage in the fall election.

Knee jerk - unsubstantiated - judgments, like those of Mr. Bock, rarely produce sound results. It's wholly inappropriate and irresponsible to condemn Ms. Barnes as an accomplice in some "diabolical" scheme to cheat or shortchange the voters.

While I share the frustration felt by many in the timing of this judicial appointment, character assignation of Jennifer Barnes through undeserved inferences and innuendos is just plain wrong. Even vicious.

If the governor had waited until Judge Newcombe's last day on the job, or his last day on the payroll, and then went through the usual selection process she followed half a year ago, the same political appointment still would have been made. Probably from the same pool of wannabe judges who submitted their names six months prior.

That's the nature of the political beast, and it is all about politics - - on the bench, always, and regrettably, as evidenced in the tag team between then Prosecutor Sheeran and Judge Caprathe in the Donna Yost case.

Those in power try to conceal their glaring partisan and self-interested manipulation of community trust. Consider for example, the way the Republican and Democratic parties nominate their respective candidates to run for our state's supreme court on a nonpartisan ballot.

Now that's a farce! And it's a glaring example of the hypocrisy throughout our entire court system. So is it any wonder that partisan politics creeps its way into how a local judge becomes a judge by gubernatorial appointment?

The deep rooted resentment in Jennifer Barnes' appointment as the next judge lies not in the appointment itself, but instead, its timing and whether her incumbency should be noted on the ballot. That's why the lawsuit filed by Steve Jacobs and Mark Janer, the two most qualified candidates of the five lawyers, is such a good thing for our community.

They focus on the real issue, ballot incumbency, and not the appointment itself. Unlike others, they make no demands for Barnes' resignation.

Let the courts decide this issue, not local pundits. To publicly demand that Barnes resign her new position before she ever puts on a judicial robe "to prove her integrity" is akin to a lynch mob mentality.

The community should thank Mark Janer and Steve Jacobs for the reasoned leadership they have shown. Circuit Judge Fred Borchard of Saginaw, a respected and scholarly jurist, has been appointed to hear the case. That's good, too, because this case involves a legal issue never before addressed by the courts. In fact, the designee judge, Jennifer Barnes, welcomed the judicial review for that very reason.

What's needed is a public forum covering the upcoming local judicial elections. Let's provide Judge Barnes and her male rivals, and the judicial candidates in other races, an opportunity to air their views and opinions to the extent allowed for judicial candidates.

That's why Bay Justice Associates has partnered with Art Dore, this community's future oriented citizen, to host the "FORUM FOR JUSTICE: Bay County Decides Together" scheduled for Sunday, July 11.

Following the afternoon program, those in attendance will be invited to an exclusive open house and backyard Bar-BQ at the Bay Justice Building to afford members of the public to meet with the judicial candidates one-on-one to discuss their concerns and local issues.

It will be an enlightening afternoon, and you should plan to attend.



Edward M. Czuprynski
Independent Attorney

*A Public Service Message from:
Bay Justice Associates, P.C.
"Championing the Cause of Justice"
989-894-1155*

**NEXT SUNDAY: JUDGE VS.
PUBLIC ADVOCATE**