

Independent Voters of Illinois -Independent Precinct Organization  
2012 APPELLATE COURT QUESTIONNAIRE – page 1

DATE: December 16, 2011

NAME: Justice P. Scott Neville, Jr.

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CAMPAIGN MANAGER: Charles D. Neville

*Please provide the following background information:*

Elective or appointive public and/or party offices previously held including dates.

Judge of Circuit Court of Cook County 1999 - 2004; Justice Illinois Appellate Court  
2004 - Present: See Resume, Exhibit 1.

Other elective offices for which you have been a candidate.

Third Ward Alderman 1985

Principal business, educational, professional and civic activities of the past ten years.

See Resume, Exhibit 1

What subjects have you studied and what experience have you had which will be most helpful to you in the office you seek?

Illinois Judicial Education Conferences: 2000, 2002, 2004, 2006, 2008, and 2010.

Civil, Criminal, and Appellate Procedure courses in each of the aforementioned years.

Appellate Court Conferences: 2004 - 2011; Civil and Criminal updates from the United States Supreme Court and the Illinois Supreme Court.

Please detail your prior political activity, if any. Give positions held, dates, organizational memberships, role you played in political campaigns.

Political Activity - Candidate for Third Ward Alderman in 1985, for Circuit Court Judge in 2000 and for Justice of the Appellate Court in 2012.

Please state any evaluation ratings you have ever received for any judicial office by any bar association. List the office and the date of the election for which the evaluation was made. Please use the following format:

*Date*                      *Position*                      *Bar Association*

*Rating*

See Ratings 1991, Exhibit 2

See Ratings 1999, Exhibit 3

See Ratings 2006, Exhibit 4

See Ratings 2012, Exhibit 5

1. **What do you believe are the major strengths and weaknesses of the Appellate Court? Would you change the manner in which the Appellate Court functions?**

- A. One major strength of the Appellate Court is its ability to review every final order and some interlocutory orders, and another major strength of the Appellate Court is that in 95% of its cases, it is the court of last resort.
- B. The major weaknesses of the Appellate Court are its decisions are reviewed by Supreme Courts, and it has an inability to render binding decisions in other appellate districts when a conflicting decision has been made by an appellate court in the other district.
- C. I would change the manner in which the appellate court functions by rotating the justices in the First District twice a year, or every six months, in order to diversify the panels that decide each case.

2. **Please discuss the Appellate Court's practice of assigning each case prior to oral argument to one member of the panel to write the opinion?**

I think the Appellate Court's practice of assigning each case before oral argument to a member of the panel to write the opinion is a good practice because this is the only way to make sure that each justice is assigned the same number of cases. Early assignment also aids in more expeditious decisions because it permits the court to assign cases that return to the court after a remand to the same justice, and it permits criminal cases with co-defendants to be assigned to the same justice who is familiar with the facts because he has rendered a decision in one of the other defendant's cases. Finally, if cases were assigned after oral argument, it would burden the Presiding Justice of a division to keep track of the number of cases assigned to each justice.

3. **What would be the reasons for not publishing an opinion?**

Opinions do not need to be published when there is a published opinion with facts that are similar to the facts in the case being decided. This may, however, be a moot question because, beginning on July 1, 2011, all opinions, Rule 23 orders, and summary orders now appear online.

4A. **What is the role of dissent in an intermediate appellate court?**

The role of the dissent is to point out to the majority where they have ignored or failed to consider important facts, where the majority failed to apply the correct standard of review, or where the majority failed to consider or follow the correct cases or statutes.

4B. **Under what conditions would you write a dissenting or concurring opinion?**

I would write a dissenting opinion when the court has made an erroneous decision, and a concurring opinion when facts or cases that are germane to the issue presented to the court are not discussed in the majority opinion.

5. **What procedural changes, if any, do you think would be helpful to ensure that Appellate Court decisions in child custody disputes are made effectively and promptly?**

I do not think any procedural changes are required to expedite child custody disputes. Supreme Court Rule 311 provides that the appellate court shall issue its decision within 150 days after the filing of the notice of appeal. These cases are given special consideration by the Clerk of the Appellate Court once the cases are filed. Moreover, the fact sheet for each case indicates the date that the decision must be filed by the Appellate Court, and the Clerk calls justices to remind them about the filing date for a custody decision.

6. **The Lockstep Doctrine that the protections of the Illinois Constitution's Bill of Rights must be interpreted in lockstep with the U.S. Supreme Court's interpretation of parallel provisions of the Federal Bill of Rights please comment.**

I think that state Supreme Courts abdicate their constitutional responsibility when they invoke the Lockstep Doctrine and defer to the United States Supreme Court's interpretation of a constitutional provision that is similar to a state constitutional provision. When interpreting the constitution, a state supreme court should exercise the rights reserved to the states in the federal constitution and should expand the dictates of the United States Supreme Court's decisions in order to confer more rights on state citizens.

7. **What is the appropriate role of economic analysis and particular cost benefit analysis in appellate jurisprudence prudence?**

During my seven years on the appellate court and after participating in thousands of decisions, I have never had an occasion to use an economic or a cost benefit analysis. I would consider an economic analysis or a cost benefit analysis if the issue was raised by one of the parties.

8. **What are the pros and cons of an elected, an appointed, or a hybrid system for the judiciary?**

A I think the elected system is the best way to ensure that we have a diverse judiciary. In Cook County, the sub-circuit system has diversified the bench and increased the number of Black, Latino, women, gay and lesbian judges.

**How might the Illinois courts benefit or suffer from a change?**

B Appointive systems, like the federal system, are extremely political and have not diversified the judiciary as much as the sub-circuit system in Illinois. One of the problems with appointive systems is who picks the pickers. I do not believe that Black, Latino, women, gay or lesbian citizens will pick the pickers nor will they be in the majority when pickers are selected to do the picking. A change from the elected system in Cook County would return this county to a non diverse judiciary and would reduce the number of Black, Latino, women, gay and lesbian judges.

**9. How has mandatory sentencing affected the criminal justice system in Illinois?**

Mandatory sentencing has taken sentencing discretion away from trial judges and has resulted in Illinois' penitentiaries becoming overcrowded.

**10A. How has automatic transfer of juveniles affected the criminal justice system in Illinois?**

The automatic transfer of juveniles into the criminal system has contributed to our penitentiaries becoming overcrowded because juveniles convicted of criminal offenses, instead of juvenile offenses, receive longer sentences.

**10B. How has it affected the recidivism rate of juveniles?**

Juveniles who are transferred to the criminal justice system have higher recidivism rates because, once convicted of a criminal offense and reaching the age of 18, they are housed in penitentiaries with more experienced criminals who have committed more serious offenses. Therefore, the interaction with more experienced criminals culminates in more juvenile recidivism.

**11. Do you think the juvenile justice system should focus on rehabilitation or punishment? Why?**

I think the juvenile system should focus on rehabilitation because these young men and women have sentences that will permit them to return to society, therefore, they need stable living environments, education, vocational training, and mentoring so they can become productive citizens.

**12. How do you account for the disproportionate number of minorities prosecuted and incarcerated?**

A. I think that there is a disproportionate number of minorities being prosecuted and incarcerated because of poor schools, limited employment opportunities and poverty in minority communities, and because police departments, prosecutors' offices and the judiciary are disproportionately

white and these groups are often insensitive to the issues facing minorities.

**What can the courts do to correct the disparity?**

B. Judges can not change the number of minorities being prosecuted because that is a decision that rests exclusively with the prosecutor's office. Judges will only be able to change the disparity in the number of minorities being incarcerated if legislation is enacted that gives judges more sentencing discretion: judges must be given the authority to use probation or release with a monitor as an alternative to incarceration. Finally, the disparity will only be corrected by society improving the schools in minority communities, by increasing the employment opportunities for minority youth, by eradicating poverty in minority communities, and by diversifying police departments, prosecutors' offices and the judiciary.

**13. What do you consider the important aspects of a judge's decision in handling a petition by a minor for a waiver of parental notice with the intent to have an abortion?**

Our laws afford constitutional protection to personal decisions relating to marriage, procreation, contraception, family relations, child rearing and education. Therefore, the critical issues a judge must decide when making a decision in a case involving a petition filed by a minor for waiver of parental notice would be a) whether the minor is well enough informed to make an intelligent decision about having an abortion, and b) whether waiver of notice would be in the best interest of the minor.

**14. What options available to a judge under Illinois law do you consider most effective in sentencing perpetrators of hate crimes? Please explain your choices.**

Hate crimes are serious offenses because the offenders who commit these offenses have biases that are based on race, religion or sexual orientation. The Hate Crime Statute provides that upon imposition of any sentence, the trial court shall either order restitution to the victim or impose a fine up to \$1000, and in addition shall include a condition that the offender perform public or community service of no less that 200 hours. Se 720 ILCS 5/12-7.3 (West 2008). In my opinion, the way to deter offenders is by educating the offenders, by having them perform community service for an organization associated with the group the hate crime was committed against, and by providing counseling.