

Independent Voters of Illinois-Independent Precinct Organization
2012 Supreme Court
CANDIDATE INSTRUCTIONS

In order to be favorably considered for an IVI-IPO endorsement, you should follow these instructions carefully.

YOUR RESPONSES SHOULD BE TYPED AND INCLUDE BOTH THE QUESTIONS AND THE ANSWERS. Questionnaires are in Microsoft Word and can be downloaded from our website www.iviipo.org to be filled in. If you are unable to download the questionnaire, please email us at iviipojrc@yahoo.com and we will email the questionnaire to you.

Please be sure to complete the contact information and the background questions on the first sheet. Following the cover sheet is a brief questionnaire which also should be completed.

Your interview with IVI-IPO members from Cook County will be scheduled in September and will take approximately 10-15 minutes. Please bring twenty (10) copies of your completed questionnaire to the interview session and email a copy of your completed questionnaire to iviipojrc@yahoo.com no later than 5pm Friday, August 29, 2008. After hearing from all candidates, the members will vote to recommend to the Board that one candidate be endorsed or that the Board make no endorsement.

Completed IVI-IPO questionnaires will be posted on our website after the Board completes the endorsement process on September 24. For privacy purposes, your home address & phone number will be removed from the questionnaire prior to posting.

All candidates who appear for an interview will be notified by email of the endorsement decision. IVI-IPO will arrange a press conference to announce our recommendations. The Independent Campaign Committee (ICC) will work with IVI-IPO supported candidates to publicize our endorsements.

If you have any further questions, please contact our office at iviipojrc@yahoo.com. We wish you good luck in your endorsement application and in your campaign.

NOTE: Our questionnaire is meant to elicit your thoughts and impressions of certain aspects of the law, not to obtain a commitment on how you may rule in a given case, or on any particular issue, that may come before you as a judge.

We are aware that Canon 67 of the Illinois Canons of Judicial Ethics purports to restrict your ability to appear to commit yourself to a position that you may later have to rule on. We are also aware that Republican Party of Minnesota v. White, 536 U.S. 765 (2002), struck down a similar, if not identical, canon in Minnesota as a violation of the First Amendment to the United States Constitution. In an effort to accommodate any conflict you may still feel between Illinois Canon 67 and the White case, we hereby acknowledge that any answer you give to any of our questions does not commit you to rule in any particular way in a given case. **Thus, kindly answer each and every question without invoking Canon 67.** Candidates who answer all of the questions will be given preference in endorsement over those who do not.

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DATE: 12/19/2011

NAME: Mary Jane Theis

VOTING ADDRESS: 4217 N Hermitage, Chicago IL

HOME PHONE _____ BUSINESS PHONE _____ 312-793-5460 _____

E-MAIL: info@theisforjustice.com WEB SITE: www.theisforjustice.com

CAMPAIGN ADDRESS: 29 S. Lasalle #936, Chicago IL

CAMPAIGN PHONE: 773-413-9483 FAX: 312-629-8100

CAMPAIGN MANAGER: Brendan O'Sullivan

Please provide the following background information:

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

1983-1988 Associate Judge, Circuit Court Cook County
1988-1993 Circuit Court Judge Cook County
1993-2010 Appellate Court Judge, First District
2010-Present Supreme Court Justice, First District

Other elective offices for which you have been a candidate.
None

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

Loyola University Chicago School of Law- Faculty, Lecturer
Northwestern University School of Law- Lecturer
John Marshall School of Law- Lecturer

I have been a speaker, panel moderator, panelist, and participant in numerous judicial conferences and continuing legal education programs over the last ten years. In addition I have served as the president of the Illinois Judges Association, and the Appellate Lawyers Association, and was a founding member and the first president of the Illinois Judges Foundation, the charitable arm of the judges association. I have served on the Board of Managers of the Chicago Bar Association and on the Board of Governors of the Illinois State Bar Association.

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

I have been a judge for the past 28 years, serving on every level of the court. Before that I was as an assistant public defender for 10 years. Every bar association which has evaluated candidates for this election has found me highly qualified or recommended for the position of Supreme Court Justice.

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

I served as the chairman of Senate President John Cullerton's first campaign for state house in 1978. I have volunteered to campaigns since then, but have not held any active roles as I have been a sitting judge since 1983.

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:

<i>Date</i>	<i>Position</i>	<i>Bar Association</i>	<i>Rating</i>
2011	Supreme Court	Chicago Bar Association	Highly Qualified
2011	Supreme Court	Illinois State Bar Association	Highly Qualified
2011	Supreme Court	Hispanic Lawyers Association	Highly Qualified
2011	Supreme Court	Decalogue Society of Lawyers	Highly Qualified
2011	Supreme Court	Women's Bar Association	Recommended (highest rating)
2011	Supreme Court	Hellenic Bar Association	Recommended (highest rating)
2011	Supreme Court	Black Women Lawyer's	Recommended (highest rating)

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Judicial independence is the bedrock of the American Rule of Law. Judges have the freedom to make difficult and sometimes unpopular decisions when citizens have confidence that the judge has embraced the ethical standards of integrity and impartiality.

Supreme Court Rule 67 provides that a judicial candidate shall not make statements that commit or appear to commit the candidate with respect to cases, controversies, or issues within cases that are likely to come before the court. Although this questionnaire respectfully requests that the respondents avoid citations to Rule 67, the Rule is the law of this State and is binding on me and all judicial candidates. I am legally and ethically required to follow its language.

Some of the issues raised in the questionnaire are or may be pending before the Illinois Supreme Court. Therefore it would be inappropriate for me to answer those questions at this time.

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

Over the last 15 months I have been a member of the Illinois Supreme Court. The greatest strength of the Court is its collegiality. Collegiality does not mean a simple social relationship among the judges. On a shared decision-making court, the respect that the members have for each other affects the quality of the decisions. The Wisconsin Supreme Court is an example where personality differences have been very destructive to the Court's work. My experience is that all 7 Illinois Justices are committed to doing the right thing. We have different views, but we disagree in a very civil manner. This is a benefit to the People we serve.

Please see Question 14 regarding problems in the Court and possible solutions.

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

In May of last year the Court decided that it would no longer publish books. All decisions of the Supreme and Appellate Court are available on the Court's website. Therefore all cases are "published."

The question remains whether all appellate decisions should be precedential. I do not believe so. At any given time there are approximately 5000 cases pending in the First District alone. Many of these cases are single issue appeals that involve settled law. Many are very fact specific. I believe a consistent Rule of Law would be undermined by a cacophony of cases.

3. What is the role of dissent in an court? Under what conditions would you write a dissenting or concurring opinion?

During the past 18 years in which I have served on the reviewing courts, I have written many dissents and concurrences. The purpose of separate writings, of course, is to explain my view of the law when I do not agree with the lead opinion. It is always a question, however, to whom the writing is addressed. On the Appellate Court I hoped to persuade other Justices who may face the same issue in another case that my

position was the better answer. I also hoped the Supreme Court would consider my dissent when it considered a Petition for Leave to Appeal.

On the Supreme Court I have found that my writing can change my colleagues' minds. In one case the initial vote was 6-1. After I circulated my dissent, one by one, the votes changed. Finally the original author adopted my writing as the majority. The case ultimately was filed as an unanimous decision.

Concurrences are more subtle. I am very concerned not only in the result of the cases, but what reasoning is adopted by the Court. This is an area where unintended consequences can be very problematic. Lower courts look to the Supreme Court's analysis of the issues as well as the Court's holding. A concurrence provides an alternative.

4. 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.

The Lockstep Doctrine is an issue in Hope Clinic v. Adams, No. 112704, which is currently in briefing before the Court. Therefore I respectfully decline to comment here.

5. What is the appropriate role of economic analysis, and particularly cost benefit analysis, in jurisprudence?

Judges are not economists. Assessment of risk and estimation of benefit are not the natural expertise of the judiciary. I have never been involved in a case in my 18 years on reviewing courts where I used such an analysis in reaching a decision, as I am always uneasy when a judge decides an issue based on something outside the record. A judge relying on a personal belief in one economic theory over another is inappropriate.

That said, there is an economic element in many types of cases, and there could be an individual impact on a party in an individual case that might be an appropriate consideration, as, for example, involving an issue of punitive damages.

6. What are the pros and cons of an elected, an appointed, or a hybrid system for the judiciary? How might the Illinois courts benefit or suffer from a change?

My short answer is that I believe there is no perfect system for the selection of judges.

For years many people have advocated for a so-called "merit selection" system so that politics would be removed from the judiciary. And yet just last November in Iowa, a merit selection state, three Supreme Court justices were defeated in retention by a national campaign because of their decision in a gay marriage case.

Our elective system certainly has flaws. We have seen too often that highly UNqualified candidates have been successful. It is essential that groups like the IVI-IPO educate voters about the Qualifications of judicial candidates.

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

Although mandatory sentencing laws are a result of legislative action, it is important for lawyers, judges, and all Illinois citizens to be aware of any laws which may affect the fairness of the criminal justice system. If, for example, mandatory sentences unfairly impact the balance in plea negotiations, or result in sentences which are disproportionate to the offense, the legislature and the public should address their concerns.

8. How has automatic transfer of juveniles affected the criminal justice system in Illinois? How has it affected the recidivism rate of juveniles?

Automatic transfers are, like mandatory sentences, a product of the legislature. Any information I might have concerning their effect would be anecdotal. However, if they are found to have a negative impact on recidivism rates, the criminal justice system, or society as a whole, this should be brought to the attention of the legislature so that they can review such policies.

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

In People v Villa, 2011 IL 11077 (12-1-2011) I wrote the following for the majority:

The State also argues that the legislature intended to put juvenile adjudications on the same footing as criminal convictions for impeachment purposes. The State cites the Juvenile Justice Reform Provisions of 1998 as a whole, noting that this court has recognized a “shift from ‘the singular goal of rehabilitation to include the overriding concerns of protecting the public and holding juvenile offenders accountable for violations of the law.’ ” *People v. Taylor*, 221 Ill. 2d 157, 172 (2006) (quoting *In re A.G.*, 195 Ill. 2d 313, 317 (2001)). The State maintains that allowing juvenile adjudications to impeach a testifying defendant is consistent with this shift in purpose.

Although juvenile proceedings and criminal trials share a number of common features, significant differences still exist between the two. *Taylor*, 221 Ill. 2d at 170. Further, the shift in goal set forth in the Juvenile Justice Reform Provisions of 1998 has not negated the concept that rehabilitation is a more important consideration in juvenile proceedings than in criminal trials. *Id.* This court, therefore, has been reluctant to equate a juvenile proceeding under the Act with a criminal trial. *In re Rodney H.*, 223 Ill. 2d 510, 520 (2006). As we stated in *Taylor*, “ ‘the ideal of separate treatment of children is still worth pursuing.’ ” *Taylor*, 221 Ill. 2d at 170 (quoting *McKeiver v. Pennsylvania*, 403 U.S. 528, 546 n.6 (1971) (plurality op.)). Thus, we reject the State’s argument that juvenile adjudications should be put on an equal footing with criminal convictions for impeachment purposes.

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10. How do you account for the disproportionate number of minorities prosecuted and incarcerated? What can the courts do to correct the disparity?

This is a very serious issue that has been insufficiently addressed by society and its institutions. Although the Court cannot, and should not, attempt to address this problem through the vehicle of any individual case, it is not inappropriate for leaders, including judges, to speak out if they feel that the disparity is caused by improper considerations such as race, national origin, gender, or economic status. I have read Michelle Alexander's excellent book "The New Jim Crow" which deals with this issue, and I have recommended the book to many groups of judges, lawyers, and non-lawyers. As a member of the Supreme Court Committee on Education, I brought Ms. Alexander to speak to judges at the 2010 Advanced Judicial Academy.

11. 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?

Issues regarding the Parental Notification Act are currently pending before the Court in Hope Clinic v Adams. Therefore, I respectfully decline to answer this question.

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

The Illinois Hate Crime Act, 720 ILCS 5/12-7.1, provides that any order of probation or conditional discharge shall include a condition that the offender perform no less than 200 hours of public or community service. An amendment that is effective 1-1-12 also requires that an offender who causes damage to religious items must enroll in an educational program discouraging hate crimes. As a reviewing court Justice for over 18 years, I do not have enough experience with this statute to know how effective these programs are.

13. What changes would you suggest for the workings of the Illinois Supreme Court?

Chief Justice Thomas Kilbride has announced that improving Illinois courts through technology is one of his top priorities. The challenge has been that Illinois, unlike the federal system, is not an unified court system. In Illinois there are 102 counties, 23 circuits, five appellate districts - almost all with elected clerks. We have many different operating systems across the state that cannot communicate with each other.

We need e-filing and we need e-records. This is especially true for the work of the Supreme Court itself. The seven Justices of the Court are located all across the state. Except for the two weeks every other month that we sit in Springfield, we have very little contact. Documents are filed in Springfield and then sent to our home offices. It would be enormously helpful to have the briefs and especially the record on a disc. Currently the one copy of the record remains in Springfield until it is sent to the authoring Justice's home office.

14. Would you appoint a screening committee to assist you in making judicial appointments? Would you appoint candidates over the objections of said committee?

Each Justice uses a different system for screening nominees. Some require each applicant to be screened by various bar associations. Some have formed commissions of lawyers and non-lawyers to evaluate candidates. Some Justices do both. On some occasions Justices have made appointments without any screening.

I have made two appointments to the Circuit Court and one to the Appellate Court. Jean Prendergast Rooney had been found Highly Qualified by Justice Anne Burke's committee. Judge Rooney was later evaluated by

the bar groups and received high ratings. Diann Marsalek had been evaluated by all the bar groups before I considered her for appointment. When a vacancy occurred on the Appellate Court, Judge Stuart Palmer had been previously evaluated by the bar. In that case I reassembled the commission created by Justice Thomas Fitzgerald to screen Judge Palmer.

If I remain on the Court, I will develop a pool of possible appointees who have been evaluated by the bar associations, and then create a commission to screen only candidates that I am seriously considering for appointment. If a candidate is not found qualified by the bar or commission, I will not make the appointment.

15. What changes should be made to the appointment process to make it a more collaborative activity of the entire court instead of the decision of an individual justice?

The current practice is that one justice from the district where a vacancy has occurred recommends a nominee to the Court. A resume, bar evaluations and other relevant information concerning the nominee are sent to each of the other Justices. It has been my experience during my tenure on the Court that there are occasions where additional discussion about a nominee occurs before the final appointment order is entered. Ultimately, all seven Justices vote on each appointment.