

Supreme court elections: Donations vs. impartiality on docket
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In her three campaigns for the Ohio Supreme Court, Evelyn Lundberg Stratton has received a little more than \$20,000 from employees of State Farm Insurance.

The insurance giant also contributed \$75,000 last year to an independent group, Partnership for Ohio's Future, that produced feel-good advertisements promoting the candidacies of Stratton and another justice.

Now, a U.S. Supreme Court case could determine whether such largesse -- routine in Ohio and other states with elected supreme courts -- has so much influence over the dispensers of justice that they can't fairly decide cases involving those contributors.

That would be bad for Stratton -- and for State Farm.

Since Stratton joined the state's top court in 1996, she has ruled for the company in 15 cases and against it in one.

The company has one case pending before the Ohio Supreme Court that could determine whether it must pay the medical expenses of accident victims under its uninsured-motorist policies.

Stratton says she evaluates every case with an open mind and based on the law, not politics. "I never look at my finance statements after the campaign is over," she said. "Most of the time, I don't even know who contributed."

Some lawyers and activists don't buy that idea. They say the prodigious fundraising of Ohio Supreme Court justices -- the second-highest in the nation since 2000 -- makes them indebted to parties and interest groups that often come before the court. Stratton, typical among the all-Republican bench, raised nearly \$3 million total in her three elections.

"The problem is, we need to have clear judicial independence," said Catherine Turcer of the reform group Ohio Citizen Action. "As long as the referees are receiving money from one of the players in the middle of the game, we don't have that."

Turcer's group and Stratton both filed friend-of-the-court briefs in a closely watched U.S. Supreme Court case that will be argued Tuesday.

In that case, the U.S. Supreme Court will decide whether a West Virginia Supreme Court justice should have stepped aside from a case in which he joined a narrow majority that threw out a \$50 million verdict against a coal company. The company's chief executive had spent about \$3 million to defeat the justice's opponent in the 2004 election.

Currently, there's no Ohio or national standard that disqualifies a justice from ruling on a case in which one of the parties contributed to his or her campaigns. Justices must step aside only when they or their family members stand to personally benefit from a ruling. The chief justice then appoints a judge from another court to sit in on the case.

Turcer and other activists say campaign contributions also can bias a justice's approach to a case.

"Our polling has shown that the public is uncomfortable with people passing judgment on people who have helped them get elected," said Charles Hall of the activist group Justice at Stake, which filed a friend-of-the-court brief in the U.S. Supreme Court case.

On the other hand, Ohioans have voted twice to keep the system of electing Supreme Court justices every six years. In the most recent election on the issue, in 1987, voters overwhelmingly rejected the idea of letting the governor choose justices and then having them stand in a retention election two years later.

Stratton said it's possible to question the impartiality of appointed judges based on who appointed them. The election system keeps judges accountable, she said.

As long as judges are elected, people with an interest in judicial decisions will continue to contribute to candidates, she and others note.

"You don't buy a judge," Stratton said. "You support a philosophy, just as you do when you elect a state representative who shares your philosophy."

Although Stratton generally sided with State Farm in its Supreme Court cases, she was less favorable toward Cincinnati Insurance Co., another stalwart contributor. Its employees have given Stratton's three campaigns \$54,177. She has ruled in the company's favor nine times and against it seven times.

Forcing judges to step down from cases involving campaign contributors would create a host of unintended consequences, said Bradley A. Smith, a professor at Capital University Law School and former Federal Election Commission chairman.

For example, a party to a case could donate to a judge specifically to disqualify him or her from ruling, Smith said.

Besides, Smith said, there's nothing to prevent judges from stepping aside from cases in which they feel compromised by a contribution -- and voters from judging them on that decision in the next election. Stratton excused herself in an election dispute last year because she was on the ballot.

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