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Proof That Down-Ballot Supreme Court Races Really Matter

POSTED BY ELI SANDERS ON FRI, MAR 1, 2013 AT 6:00 AM

The vote in yesterday's **landmark** Washington State Supreme Court ruling on tax increases was 6-3.

Which makes it worth remembering: If the media hadn't sounded the alarm about "**zero qualifications**" Bruce Danielson in his race against Justice Steve Gonzalez last year, and if Justice Charlie Wiggins hadn't **unseated** long-time incumbent Richard B. Sanders with a victory margin of **less than one percent** in 2010, then yesterday would likely have brought us a very different high court decision.

Seen in this light and over this longer time horizon, yesterday's 2/3 majority ruling becomes a striking example of what happens when reporters and voters—especially reporters and voters in King County—stop yawning at down-ballot supreme court races and start paying closer attention year after year.

Both the 2010 Sanders campaign and the 2012 Danielson campaign brought conservative candidates for the high court who seemed to be banking on voters' inattention to detail. Sanders had great name familiarity from his years on the bench, but also had some **glaring hypocrisies** and **alarming statements about race**. Danielson had a very anglo name to put up against our state's first Mexican-American justice, but otherwise **didn't run** much of a campaign.

As crazy as it sounds, ignoring your negatives and banking on an appealing name is a time-tested strategy for winning a spot on our high court. For evidence, look no further than Charles W. Johnson, the author of yesterday's lead dissent. In 1990, Johnson was a legal nobody, but he managed to beat out a hugely respected, widely endorsed incumbent justice with the unfortunate name of Keith M. Callow. Now Johnson is in his fourth term on the court.

If reporters and voters in King County hadn't been paying attention to Danielson-Gonzalez last year, and to Sanders-Wiggins in 2010 (as well as to **Sanders-McCloud** in 2012), those races could easily have tipped to the conservative candidate with the more familiar name. There wasn't even a statewide voters guide printed in 2012, which only added to the likelihood that low-information voters would make picks based on nothing more than the names they liked best. (And why wasn't there a statewide voters guide? Because the 2/3 majority requirement left the state without enough revenue to fund one.)

So, in a sense, it's poetic justice that King County's media and voters played such a decisive role in sending Danielson and Sanders packing.

King County has suffered disproportionately from years of cuts to education and the social safety net that were necessitated by the 2/3 majority requirement. Now, thanks to King County's considerable influence on statewide election results, a high court majority created by King County has found, in a case brought by plaintiffs from King County, that the 2/3 majority requirement is unconstitutional. (With Wiggins, Gonzalez, and McCloud all joining the majority to strike the requirement down.)

Conservatives will complain about this, but that's how democracy works in our state. We elect our supreme court justices by a statewide popular vote, and anyone who can count knows it's very hard to win a statewide popular vote when King County takes a close look at you and decides it doesn't like what it sees.