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Challengers accuse state Supreme Court justice of bias

By Michelle Dupler, Herald staff writer

A three-term incumbent faces opposition from a Pierce County judge and Bainbridge Island lawyer in his bid for another term on the state's highest court.

Opponents Bryan Chushcoff and Charlie Wiggins have accused Supreme Court Justice Richard Sanders of being biased and out of touch in the opinions he has written.

Chushcoff, who has served 14 years on the bench in the Pierce County Superior Court, said he chose to enter the race because he believes the public has lost faith in the judicial system as too many judges let their political leanings show in their decision-making.

"There is an increasing concern on the right and the left that justices have a political philosophy and are using decisions to advance that," he said. "Justice Sanders has done that in several decisions."

He cited Sanders' lone dissenting opinion in a case that ultimately upheld the state's three-strikes law mandating a life sentence for certain kinds of repeat offenders. Sanders wrote that the law amounted to cruel punishment under the state constitution. Chushcoff said that opinion wasn't upheld by previous decisions.

"It was very well-written," he said. "But the troubling thing about it is I have never seen any jurisprudence that number of years in jail (amounts to) cruel punishment."

He said Supreme Court justices shouldn't override the state Legislature unless there's a sound constitutional basis, and Sanders' opinion in the three-strikes case was a stretch.

"He describes himself as no greater advocate for the rights of the accused," Chushcoff said. "Judges shouldn't be advocates for anyone. They should be neutral, impartial arbiters of the matters before them."

Wiggins, a former court of appeals judge now in private practice, attacked Sanders for his opinion -- again as a lone dissenter -- in a case seeking disbarment of a lawyer who had been convicted of molesting an 11-year-old former client.

The state bar association's disciplinary committee had recommended disbarment, but the final decision to revoke a lawyer's license rests with the Supreme Court. Eight justices voted in favor of disbarment, but Sanders recommended a temporary suspension.

"I think when a lawyer is convicted of child molesting an 11-year-old boy, that is probably a disbarable offense," Wiggins said.

Sanders prides himself on being an iconoclast on the court, and said he stood by both decisions and his overall record on the court.

"I think I add something to the court," Sanders said. "I make my colleagues think. ... A dissenting opinion strengthens all of the opinions on the court because they have to deal somehow with the objections."

He said his opinion in the three-strikes case was based in the constitution, not any political viewpoint.

"I had to consider a case where a 27-year-old black man stole \$300 from an espresso stand with a finger in his pocket (pretending to be a weapon) and he was sentenced to life without parole," Sanders said. "I thought that was disproportionate. ... It is up to the Supreme Court to make sure constitutional principles are observed. I think it was cruel then. I think it is cruel now. I think he could have been a productive citizen. I don't believe in cookie cutter justice. Sentencing should not only match the crime, but the criminal."

In the disciplinary case, Sanders said he was following adopted disciplinary rules while his eight colleagues voted to depart from existing standards.

"The Washington Supreme Court previously adopted American Bar Association standards for attorney discipline," Sanders said. "The presumptive standard for sexual assault is suspension. I followed the standards."

Sanders has been endorsed by the Washington State Republican Party, Washington State Libertarian Party, International Brotherhood of Electrical Workers Local 483, Council of Retired Public Employees Chapter 19, Association of Washington Business, Washington Association of Realtors, Washington Farm Bureau and Attorney General Rob McKenna, among others.

Sanders was rated well qualified by the King County Bar Association, one of the only organizations to rate all three candidates.

Wiggins' endorsements include the Washington Council of Police and Sheriffs, Washington State Labor Council, Washington Conservation Voters, Washington State Patrol Troopers and Washington State Democrats.

Wiggins was rated exceptionally well qualified by the King County Bar Association.

Chushcoff does not list any endorsements on his website. He was rated qualified by the King County Bar Association.

-- On the net:

Chushcoff, chushcoff4justice.com

Wiggins, [charliewigginsfor justice.com](http://charliewigginsforjustice.com)

Sanders, friendsofjustice.com

* Michelle Dupler: 509-582-1543; mdupler@tricityherald.com

Read more: <http://www.tri-cityherald.com/2010/08/14/1132280/challengers-accuse-state-supreme.html#storylink=mirelated#ixzz0wnjDX42l>