

# Callaghan: Justice Johnson is alive and kicking

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FILE - In this June 27, 2006 file photo, Washington Supreme Court Justice James Johnson takes a question during a hearing at the Washington State Supreme Court in Olympia, Wash. Johnson, a voice for property rights, law enforcement and open government on Washington's Supreme Court for the past decade, announced his retirement Monday, March 17, 2014, saying his health had prompted the decision.

JOHN FROSCHAUER, FILE — AP Photo

The news of my demise has been vastly exaggerated.”

That paraphrase of Mark Twain was how state Supreme Court Justice James Johnson began his call the morning after he announced his resignation for health reasons.

No, he's not terminally ill, Johnson said. Instead, two unrelated health issues combined to make it difficult to work.

First, a hip replacement he had eight years ago needs to be redone. More ominous, though, is a diagnosis of polycythemia vera, a rare blood disease that causes bone marrow to overproduce cells, especially red blood cells. He said it caused headaches and fatigue and made it difficult to give his full energy to the court. It isn't fatal but does have to be managed as it can cause blood clots and other health problems.

While he continued to work on cases, Johnson missed several weeks of oral arguments and expected to miss the rest of the winter term. He decided to resign when he realized that while he could continue to work, he wouldn't be able to give it his all.

"I got on the court to have fun, raise hell and do my job," the 68-year-old Johnson said. He will leave the court April 30.

I first met Jim Johnson in 1985 when he was an assistant attorney general defending the state law that banned media exit polling within 300 feet of the polls. Such polls were under fire, especially in the West, because they'd been used by TV networks to announce winners even before the polls had closed.

The state lost, but down time during the trial exposed us hangers-on to Johnson's great sense of humor and high-energy personality. He talked of being in the same federal courthouse in Tacoma defending the state — unsuccessfully it turned out — in the tribal fishing rights case now known as the Boldt Decision.

He later helped the state win a challenge to the Census that threatened to cost it the 9th Congressional District in 1992 (so U.S. Rep. Adam Smith owes him a beer at least).

Later still, Johnson handled the defense of the state's blanket primary and then, as a private attorney, drafted the Grange's top two primary initiative when the blanket was tossed out by the U.S. Supreme Court due to a challenges by the state's political parties.

"The parties wanted to force all people into parties, they wanted party registration," Johnson said. "It would have forced us into a more partisan state, something we're not."

Johnson is usually described as the court's conservative. He certainly qualifies, usually a safe vote against government power, except when police and prosecutors are involved.

In an earlier decision when the late-Justice Tom Chambers said the court would eventually have to rule on whether an initiative-imposed supermajority for tax hikes was constitutional, Johnson objected.

"Washingtonians adopted the (initiative and referendum) because they found elected officials to be corrupted at most and shortsighted at least," Johnson wrote. "The solution was always more control by the people."

And while he joined in the unanimous court ruling that the state was in violation of its constitutional mandate to provide ample funding for public education, he was one of two

objecting to the remedy. Johnson doesn't think the court should have retained jurisdiction and forced the Legislature to report its progress.

That Johnson might be the last conservative voice on the court should be troubling, even to liberals. The court needs diversity of opinion just as it needs diversity of gender, race and geography.

Also being lost is the court's champion for open government and public disclosure, who scolded his colleagues recently for a ruling that gave Washington's governors more-sweeping executive privilege from disclosure than the federal government or most states.

Perhaps anticipating that any delineation of his legal career might read like a eulogy, Johnson said he expects be fit enough after a three-month treatment regimen to ride his bike again. The marathons he used to run might be out of reach, however.

And he said he will keep active in legal work and continue traveling.

"I have a commitment to be in Ukraine in mid-June," he said. "I intend to keep it."

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