

# GU professor criticizes *McCleary* decision as he vies for state Supreme Court seat

Posted By Wilson Criscione on Fri, Jul 15, 2016 at 4:35 PM  
Inlander



- David DeWolf

In the last four years, perhaps no other issue has been more contentious in Washington than the state Supreme Court's 2012 *McCleary* ruling, which says fully funding basic education is a "paramount duty" of the state.

It demands that the legislature fund all transportation, maintenance, supplies and operating costs, as well as full-day kindergarten and lower class sizes in grades K-3. It also demands funding for staff salaries and raises by 2018.

Since the ruling, the state legislature has been criticized for failing to meet the mandate, the court held lawmakers in contempt for failing to adequately fund K-12 education, and it then imposed a \$100,000-a-day fine on the legislature. Some state lawmakers, however, defend the Legislature by pointing out that it has already made significant investments in K-12 education.

But **David DeWolf**, a former Gonzaga law professor, says the state Supreme Court was

wrong from the beginning, and that it wrongly interpreted the state constitution in the *McCleary case*.

"They took one sentence — the 'paramount duty of the state' — and from that they extrapolated this wide-ranging authority to, in effect, remake the state budget," he says. "And I don't think that's a legitimate, or even plausible, interpretation of what the state constitution meant."

DeWolf is running for a position on the state Supreme Court in this year's general election. He will try to unseat **Mary Yu**, a former King County superior court judge appointed to the seat in 2014 by Gov. Jay Inslee. Two other seats on the court are up for election this November.

DeWolf has also criticized the court for its ruling that state funding of charter schools is unconstitutional. He argues that the plaintiffs in the case did not meet the burden of proof that charter school funding was unconstitutional. For him, the court's rulings on education have jeopardized its relationship with other branches of the government.

"I don't think in either case the court was authorized to do what it did," he says. "And in both cases it had damaging effects on the education of Washington school children."

DeWolf retired as a full-time professor from Gonzaga following the 2015-16 school year, and he has a consulting practice on the side. He is a *fellow at the Discovery Institute*, which describes itself as a "hub for scientists, educators, and inquiring minds who think that nature supplies compelling evidence of intelligent design." DeWolf has authored publications on how to teach the "evolution controversy" in schools from a legal standpoint, and says he was quoted on the U.S. Senate Floor by former Sen. Rick Santorum during discussion of an amendment of the No Child Left Behind Act.

DeWolf says serving on the Supreme Court is one of those dreams that every law student has in their first week of class. All law students, he says, think to themselves "what if I end up in a position of writing opinions instead of reading them?"

"It's a dream that every lawyer thinks about, and the planets aligned for this opportunity."