

Judicial elections arguments heard

Eugster against appeals court process

OLYMPIA – Washington state needs a new way of electing appeals court judges to comply with the constitutional doctrine of one person, one vote, Spokane attorney Steve Eugster told the state Supreme Court on Tuesday.

But an attorney for the state countered that's really a doctrine for picking legislators, not judges, and the way appeals court judges are elected and assigned cases is correct. That phrase isn't even found in the state Constitution, which instead calls for elections to be "free and equal," Deputy Solicitor General Anne Egeler said.

"There is no right to be heard by the judge you personally elected to the bench," Egeler said.

Eugster is suing the three divisions of the state Court of Appeals, arguing that the way they are set up into geographic districts with varying numbers of judges elected from those districts is unconstitutional. In Division III, which covers Eastern Washington, one district with 460,000 people elects one judge, while another district with 404,000 people elects two judges, he said.

That's different from the state Supreme Court which handles cases from the entire state, and judges run statewide, he added. Or the Superior Courts, which handle major criminal and civil trials, cover one or more counties, and the voters in each jurisdiction elect the judges.

But Superior Court cases are sometimes heard by visiting judges elected in another county, or pro tem judges not elected by anyone, which undercuts that argument, Justice Debra Stephens said. Those are exceptions to handle the caseload, not the rule, Eugster said.

Differences between the districts don't matter, Egeler said, because all voters in the state get to elect at least one appeals court judge. "When the judges sit on a case, they are not considering how do the voters of my district want me to apply ... the law. The issue is: How does the law apply to the case?"

So why elect judges, Chief Justice Barbara Madsen asked. Because it allows the public to help decide who's fit for the job, Egeler replied.

Madsen said the state high court hasn't applied the one-person, one-vote standard to judicial elections, and asked Eugster why they should start now.

Because they do apply it to the election of legislators, he replied, then quoted U.S. Supreme Court Justice Antonin Scalia as saying "judges are representatives of the people when they interpret laws."

The court took the case under advisement for a later ruling.