OTHELLO OUTLOOK

Supreme Court at BBCC to review cases

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MOSES LAKE — The ability to have popularly-elected judges, instead of appointed ones, is a way to guard against bias in the judicial branch, Washington Supreme Court Justice Richard B. Sanders said May 18, when the nine justices visited Big Bend Community College.

Allowing the other branches to appoint judges relies to heavily on what the administration wants, not what the people want, he said.

“The alternative to being elected erodes the independence of the judiciary,” Sanders said.

One of the only problems with popular elections, he said, is people don’t know who the candidates are. This means they end up arbitrarily picking names on the ballot.

That method can sometimes work, however, in the favor of the court, Sanders said.

“Random results are not all bad,” he said. “We are nine different people with nine different personalities and the court is better for that.”

Popular elections can also lead to a lack of diversity on the benches, Justice Debra L. Stephens said. She was initially appointed to the Supreme Court and then was later elected to stay on. She said she may not have gotten the position if she had not been appointed because she is from eastern Washington and the majority of people in the state live to the west.

“The elections are statewide, not by district,” she said.

Justice Tom Chambers also supports appointments.

“How can we protect the individuals, if we are swept in and out on the whim of the majority, based on hot button issues?” he said.

There are some issues to work on, however, Chambers said.

“The appointment system has many problems, like who controls it,” he said. “Our U.S. Supreme Court is hardly a glowing example of fair and impartial appointments.”

Washington Supreme Court Chief Justice Barbara Madsen (center) and the rest of the Supreme Court heard cases at Big Bend Community College May 18. Photo by Briana Alzola.

The Supreme Court justices were at BBCC for a two-day event. Day one, May 17, featured a question-and-answer session. On day two, justices asked additional questions regarding judge appointments and elections and heard arguments for three cases.

The first case was that of Vincent R. Adolph, who is currently serving time for vehicular manslaughter. At the time of his trial, Adolph was given an extended sentence due to the fact he had three previous DUI charges. His lawyer Maureen Cyr said the state had not presented enough documentation of a 1992 DUI in Lincoln County to warrant the extended sentence.

“The objection is to the sufficiency of the evidence,” she said.

There is no paperwork that shows whether Adolph was granted counsel, whether he waived his right to counsel or even who the judge was, Cyr said.

The state offered all the evidence it had available, attorney Karl Sloan said. They used documents from the Department of Licensing.

“It was more than sufficient to prove the underlying conviction,” he said.

Sloan said no one raised questions about the evidence during the initial trial.

“During the hearing, the defense did not object,” he said.

Another case the court heard was that of the State of Washington versus William Austin Brousseau. Brousseau was convicted of molesting his step-daughter, who was 9 at the time. The girl did not speak at the trial, as she was found to be incompetent. This judgement was based solely on the testimony of a psychologist, the judge never saw the girl.

“You can’t conduct, under due process, a competency hearing without examining the child,” attorney Jeffrey Ellis said.

This examination is an essential part of a case involving a juvenile, he said.

“It’s so important to see and hear the witness and have that personal connection,” Ellis said.

Attorney Teresa Chen, who was on the side of the state, said the psychologist was more than qualified to make the decision.

“At the end of the day, the testimony convinced me she was incompetent,” she said.

Having the psychologist interview the young girl and then having her talk to a judge or even testify during trial procedures could be damaging and unnecessary, Chen said.

“It would be needlessly duplicative,” she said.

The final case the justices heard was that of Rizwana Rahman versus the State of Washington. Rahman was in a state-owned vehicle participating in state business. He invited his wife to ride with him, however, something that is prohibited. While en route, the couple was in a car accident and now Mrs. Rahman wants the state to pay the medical bills for the injuries she sustained in the crash.

Pamela Anderson, an attorney with the state, said the woman should not be covered because it was against policy having her in the car. Rizwana Rahmen, however, should be covered, she said, as he was conducting business for his employer.

“His was within the scope of his employment,” she said. “His presence in the car was what he was hired to do.”

Rahman’s attorney Karen Kay said this falls under the umbrella of vicarious liability, which means the employer is responsible if the employee does something negligent during the course of his or her employment.

All three cases should be decided in the next three to six months. Once they are, results will be posted to www.courts.wa.gov.