

Mallett calls high court rival 'part of the problem'

BY TIM RICHARD
STAFF WRITER

Justice Conrad Mallett Jr. says his election challenger is part of the state Supreme Court's problem, not its solution.

Mallett was appointed in 1990 by outgoing Gov. James Blanchard and nominated Sunday for a two-year term by Michigan Democrats.

Michael Talbot, a Wayne Circuit judge and the Republican nominee, gained fame in 1989 when he handed out a so-called "basketball score" sentence of 100 to 200 years for second-degree murder.

"That case," said Mallett, "caused the Michigan Supreme Court to develop a rule of law called proportionality in direct response to what it perceived as Judge Talbot's irresponsibility."

"They had to create, at great taxpayer expense, a huge examination process because of the imposition of a disproportionate sentence. In the past, the Supreme Court relied on the trial judges to behave in a constitutionally appropriate manner."

"They had to create a new constitutional rule to compensate for his abrupt departure from the norm of judicial decorum," Mallett said.

Talbot was reversed on a 4-3 vote of the justices in 1989, a year before Mallett was on the bench. Talbot is making that ruling an election issue.

"People rely on the Michigan Supreme Court to behave in a constitutionally responsible manner," Mallett said. "We are not charged

with the responsibility of putting people in jail.

"The court in *People vs. Moore* said you cannot circumvent the law by sentencing them to death (dying in prison). The Legislature said nothing about that being a life-of-death sentence, but you say, 'I'm going to depart from the statutes created by the Legislature and sentence them to 200 years.'"

"A judge cannot sentence someone to a term greater than the people of Michigan demand."

Open the doors

Talbot cites a study showing the Michigan Supreme Court ranks 49th in the number of opinions it writes. Mallett called it an "apples and oranges" comparison.

"Michigan is one of the few supreme courts in the country that has a purely discretionary responsibility," said Mallett, meaning the court can choose which appeals it will hear.

"Some states, like Virginia, must take death penalty appeals. Some must take all workers compensation appeals. They automatically take more cases than Michigan."

Speaking to the Democratic State Convention, Mallett said he will ask the high court to open the doors on proceedings of the Judicial Tenure Commission, the disciplinary body for judges.

"To date, the practice has been

that the commission only makes public those orders rendered by the Michigan Supreme Court that result in the public censure of a member of the judiciary. Private censures and reprimands have been shielded from public view.

"In this age of public cynicism . . . I will urge Chief Justice Cavanaugh and our colleagues to consider making public every final action taken by the Judicial Tenure Commission."

Mallett was 36 when Blanchard appointed him two years ago, and the ex-governor strongly endorsed

him as "a new, youthful justice to give some energy to our state . . . who can serve us for years."

Talbot has attacked Mallett for never having tried a case, but Justice Patricia Boyle, a Democratic appointee, rose to Mallett's defense.

"You're going to hear a lot from the opposition about being a trial judge," said Boyle as she nominated Mallett. "There's more than one way to prepare to be a justice, and I give you one example: G. Mennen Williams. His courage didn't start the day he put on a black robe."

Boyle said Mallett has "an instinct for truth, a nose for what's false."

Ironically, Boyle voted in the minority to uphold Talbot's 100-200 year sentence in the murder case.

Kelly nominated

Democrats also nominated Court of Appeals Judge Marilyn J. Kelly, 54, of Bloomfield Township to face Justice Dorothy Comstock Riley, the GOP nominee.

Kelly, who served two terms as a

Democrat on the state Board of Education in the 1960s and '70s, noted that all three times she had the support of the party, the United Auto Workers, the AF of L and the Michigan Education Association.

Kelly said her campaign would emphasize her knowledge of family law, environmental law, and the concerns of labor and women.

Kelly wrote the Court of Appeals decision that overturned Gov. John Engler's reorganization of the state Department of Natural Resources and elimination of many subordinate panels.

County issues pet warning

Life recently has become a little more hazardous for cats and dogs in Oakland County.

In addition to major freeways, household pets must now watch out for rabies. According to the state, rabid domestic animals have been found in Oakland and Lapeer Counties.

To prevent Fido or Fluffy from being infected, veterinarians recom-

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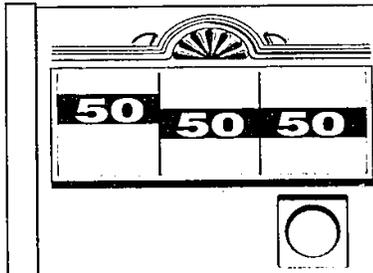
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