

Prosecutor hopefuls hot over 'experience'

BY PAT MURPHY
STAFF WRITER

During a heated moment in their debate last week, the candidates for Oakland County prosecutor glared at each other, jaws tight, voices tense, eyes glaring.

As he had done repeatedly in the campaign, Democrat Steve Kaplan insisted Republican Dave Goreyca didn't have enough experience to be Oakland's next prosecutor.

Goreyca countered by insisting Kaplan's experience isn't exemplary. "You (Kaplan) have been accused of prosecutorial misconduct," charged Goreyca, "for failing to review (reveal) material evidence to the defense attorneys. That's flatly wrong."

Retorted Kaplan, "What you don't know is the judge wanted to set aside that finding in order for the conviction to be set aside."

"You again don't have the facts," Kaplan shot back, "you never do, and I'll stand on my record."

Goreyca responded by reading from an opinion from Macomb Circuit Judge Lido V. Bucci, who last month ordered a new trial for a man convicted of attempted murder for poisoning his year-old son.

That opinion is being appealed by the Macomb Prosecutor's office, which claims Bucci erred in finding ineffective defense counsel, prosecutorial misconduct and ordering a new trial, said assistant prosecutor David J. Portuesi.

Bucci ruled the defendant was denied a fair and impartial trial because of ineffective defense counsel and because of "overzealous behavior" on the part of Kaplan, who prosecuted the case.

Kaplan was visibly shaken during the debate. Later he told reporters, "in 10 years, nobody's challenged my integrity like that."

Observers of the debate were quick to note that in a highly charged election year, politics might have spilled over into the judicial arena.

Bucci, a former Republican county commissioner in Macomb County, who prosecuted the case in court by Gov. John Engler, noted Oakland attorney Michael J. Modelski, a Goreyca supporter.

"Is it possible the opinion of a Republican judge colored his opinion (to embarrass Kaplan or his boss, Democratic Prosecutor Carl Marlinga)?" Modelski asked hypothetically. "You tell me," he said, answering his own question with another.

Goreyca, however, privately insisted voters have a right to know everything about Kaplan's experience — especially when his opponent insists experience is the crucial difference between them.

"It's all right here," he said, waving Bucci's opinion.

The opinion, dated Sept. 12, orders a new trial for Clyde L. Hunt, who, in January 1995, was convicted of feeding the insecticide Diazinon to the

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*Steve Kaplan
Oakland County prosecutor candidate*

infant he had fathered with a girlfriend, not his wife. Hunt was sentenced to 40 months in prison, but allowed to remain free pending an appeal.

That appeal came to Bucci who, after an evidentiary hearing, ordered a new trial. Of the 10-page opinion, about three pages deal with alleged prosecutorial misconduct.

When asked about the opinion and his order Friday, the judge said he could not discuss a pending case. He insisted, however, his opinion speaks for itself.

An attorney who is not directly involved in the case — but who is watching the Kaplan-Goreyca campaign — said this incident must be evaluated carefully.

Charles E. Langton, who moderated Tuesday's debate at the Detroit College of Law at Michigan State University, said objective observers should wait for the appeal to run its course before drawing conclusions.

"You have to be cautious about drawing any conclusions at this point," said Langton, who is the immediate past president of the DCL Alumni Association, which includes both Goreyca and Kaplan.

According to Bucci's opinion, the prosecutor's theory was flawed, and Kaplan was aware of it. To pursue a flawed theory was misconduct, the judge ruled.

Specifically, the prosecution was wrong to argue that Hunt's motive for attempting to kill his son was to keep information about his affair and the out-of-wedlock baby from his wife.

The judge's opinion notes that Hunt's wife told Clinton Township Police she was aware of her husband's affair and the child. Kaplan was — or should have been — aware of that information.

"The court reminds the people that a prosecutor's duty is not merely to convict but to seek justice," Bucci wrote.

When discussing the allegation Friday, Kaplan was still angry. "The defense had every bit of information I had," he said. "The defense had the police reports, they had everything I had."

Kaplan insisted he would never pursue a line of prosecution not based on facts and information available to both sides.



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