

NonDoc

COMMUNITY JOURNALISM WITH CONTEXT

(Editor's note: Oklahoma's [Code of Judicial Conduct](#) prevents candidates for judicial office from campaigning like other candidates for office. Justices in a retention election cannot comment on cases or controversies that could appear before the court and cannot endorse other candidates or campaigns, substantially curtailing their ability to engage in normal campaign activities.

To provide Oklahoma voters more insight into our judiciary, NonDoc contacted the six Court of Civil Appeals judges facing retention on Tuesday, Nov. 5, 2024, with four questions designed to provide readers with information from the justices while still complying with judicial election rules. The questions were sent to justices individually, and their full responses are listed below — by question and alphabetically — for review by voters.)

Your Honor,

NonDoc Media is covering the Oklahoma Court of Civil Appeals retention election, as well as the retention elections for the Supreme Court and Court of Criminal Appeals. We understand that judges are bound by the Code of Judicial Conduct while campaigning and wanted to reach out to provide an opportunity for you to comment on the election in accordance with the law through the following questionnaire.

To be clear, we are not asking about any specific case or potential case that might be before the court.

1. What most motivates you to want to continue serving on the court, and if you are retained do you intend to serve another six years?
2. What is the biggest issue facing Oklahoma's court system?
3. How do you think public access to the judicial branch could be improved? Do you think the Court of Civil Appeals should have a website, or at least a better online presence?
4. Is there anything else you think voters should know before the retention election?

Thanks,

- Bennett Brinkman
NonDoc Media Production Editor

1. What most motivates you to want to continue serving on the court, and if you are retained do you intend to serve another six years?

Bell: This will be my last term, if I am retained. I personally feel motivated (and have the energy) to do a good job and be a steward for the taxpayer, but I know at the end of one more term, it will be time to pass the torch.

Downing: My top motivation as a judge is my desire for our court to be the most efficient and fair it can be for the people of Oklahoma. When we get a new appeal, I realize it is something that has impacted the lives of people for a long time and sometimes years before making it to our court. My goal is to resolve their appeal fairly and as quickly as possible to bring some closure to the people involved. Sometimes their case will still be heard by the Oklahoma Supreme Court, but in most appeals our court is the final stop in their lengthy litigation process. I am constantly aware that our court is impacting the lives of people in a very important way, and that is what motivates me to do the job and be the best judge that I can for the people.

If the voters decide to retain me, it will be an honor to continue serving as a judge. I have learned not to predict the timetables of my future, and I am reminded of the scriptures that point out why it is futile for me to do so. I intend to keep serving as a judge at the will of the people, as long as that is where I believe I am supposed to be to make the biggest difference with my life.

Goree: Appellate judges study briefs and write opinions. The tasks of reading argument, studying law, and explaining how the law resolves an issue has been the focus of my entire legal career. I have a passion for this work, and would gladly serve another six-year term.

Huber: What motivates me most to continue serving on the Court of Civil Appeals is bringing my prior experiences as a business owner, attorney, and trial judge to the appellate court for the pursuit of efficiency, legal clarity, and consistency. Prior to becoming a judge, I was the owner and managing partner of a law firm for 25 years representing individuals and businesses. Since my initial appointment in 2019, I have been honored to serve as a special judge, district judge, and now as a civil appellate judge.

As an appellate judge, I have the privilege of interpreting and applying the law in an unbiased, disciplined, and constitutionally-principled manner independent of my own personal beliefs. Approaching my analysis from the perspective of judicial restraint can have a far-reaching impact, not only on the parties involved in cases but also on legal precedent and the protection of the Oklahoma legal system. Each decision provides an opportunity to contribute to a more precise and fair judicial system by ensuring that rights are protected and that the law does not stray from its text. I also find the intellectual demand required in reviewing civil cases and working with colleagues to reach thoughtful and well-reasoned conclusions enjoyable.

If retained, I intend to serve for another term on the appellate court to further contribute to the development of law, protect constitutional principles, and ensure that justice is done with transparency.

Mitchell: I enjoy what I do at the Court of Civil Appeals and I love the people I work with. Appeals are like puzzles, often with multiple possible solutions. I view our job here as finding the most factually and

legally correct solution to the issues presented. I enjoy the process of solving these puzzles and then writing opinions explaining our decisions in a coherent and organized fashion.

My intent is to continue working as long as I'm physically and mentally able.

Prince: I enjoy public service and consider myself extremely blessed to serve in the judicial branch of government. Governor Stitt appointed me to the Court of Civil Appeals in 2020. The voters then retained me during the state-wide general election in 2022. Before officially joining the Court of Civil Appeals, I served nine years as a District Judge in Oklahoma County. Prior to becoming a judge, I practiced law for 29 years. I always have attempted to serve the community through various forms of volunteer service and leadership for both private and public organizations. While in private practice, I served under contract, on a part-time basis, as an Administrative Law Judge for three different state agencies. Three prior Governors appointed me to the Oklahoma State Election Board, where I served from 1999 to 2012. I further served as a member of the Standards Board of the United States Election Assistance Commission from 2009 to 2012. During my tenure as a District Judge, the Oklahoma Supreme Court appointed me as the Presiding Judge of the State Multi-County Grand Jury, where I served from 2016 to 2018. My colleagues at the District Court level elected me to serve as the Vice-Presiding Administrative Judge for the 7th Judicial Administrative District from 2016 to 2018. I later served as the Presiding Administrative Judge in 2019. In addition to my regular duties on the Court of Civil appeals, I serve as one of three Judges on the recently created Court of Existing Claims Division of the Court of Civil Appeals. This Division of the Court has jurisdiction to hear all appeals from the Workers' Compensation Court of Existing Claims. I have served as President of the Oklahoma Judges' Association and am a former member of the Oklahoma County Law Library Board of Trustees. I am a member of the Oklahoma and Oklahoma County Bar Associations and active in both organizations. I am a current member of the Oklahoma Judicial Conference Legislative Committee. In addition, I am a Master Member and Past President of the Luther Bohanon American Inn of Court. Born in Idabel, Oklahoma, I earned a bachelor's degree in political science in 1979 from Southern Arkansas University and, in 1982, a J.D. from the OCU School of Law. My wife, Sherry, and I have five children and nine grandchildren. Yes, if retained, my plan is to serve a full six-year term and, hopefully, more years beyond that.

2. What is the biggest issue facing Oklahoma's court system?

Bell: The biggest issue facing the court system is access to justice. I think the whole system is too expensive and I am seeing more and more pro se litigants representing themselves in court. I don't have an answer to this problem.

Downing: The issue I notice being discussed most frequently about our court system is how we select and retain appellate judges. As a judge, I defer to policymakers and voters for how they want to select and retain judges. Voters chose our current method, and it requires that voters are the ones who make changes to it in the future.

There are three common methods in states for selecting appellate judges. First, in an election, the selection of appellate judges is made directly by the voters. Oklahomans tend to prefer elections. Despite stronger voter support for the elections of appellate judges, our current method was enacted in accordance with companion ballot questions that both passed in 1967. Second, in a federal style appointment the Governor nominates an appellate judge, and the Senate confirms. Both the Governor and the Senators are directly elected by and accountable to the voter. Third, in our current commission

method, the Judicial Nominating Commission (JNC) is comprised of multiple members selected either by attorneys or elected officials. The JNC provides three names to the Governor, which restricts his options to appoint an appellate judge.

The retention ballot is intended to bring direct voter participation into our current method by giving voters a chance to vote after the fact to retain or remove an appellate judge. Retention ballots are unique from other elections as there is only one candidate, and that candidate is not allowed to campaign unless opposed. As a result, it is not uncommon to hear voters voice their frustration over a lack of choice, and frequently over a lack of information about each judge. Unfortunately, given the nature of retention ballots, voters sometimes opt to just vote the same way on every judge or not vote at all. I am thankful NonDoc is helping voters find more information on appellate judges by sending out this survey.

Having gone through all three methods to enter public offices, I can attest that none of them could change who I am as a person or how I would serve as a judge. I was elected by voters as a legislator. As United States Attorney, I was nominated by President Trump and confirmed by the U.S. Senate. For our newly created Court of Military Appeals, I was nominated by Governor Stitt and confirmed by our state Senate. As a judge on the Court of Civil Appeals, I was one of three names selected by the JNC, and was then appointed by Governor Stitt. The reality is that all three methods for selecting appellate judges are prevalent in other states. All three methods have strengths and weaknesses but are certainly legitimate options and worthy of consideration by policymakers and voters. As a judge, I respect the method voters have selected, and would also welcome any method voters may choose in the future.

Goree: Sometimes individuals or organizations assume that judges of the Court of Civil Appeals decide cases based on the judge's personal concept of what is just. That is incorrect. The judges of our court decide cases based on what the law provides, not their personal point of view.

Huber: Our civil court system, especially at the district court level, faces challenges from the continuous rise in litigation and ever-increasing costs to litigants. The Oklahoma district courts also suffer from a shortage in court reporters which impacts the courts' efficiency and citizens' access to the court systems, especially those in rural areas. We must also make a concerted effort to reemphasize civility and professionalism among all participants in our legal system.

Mitchell: The issues facing the court system are certainly different from court to court. The Supreme Court's issues are different from those in the district courts. In the Court of Civil Appeals, we do what the Supreme Court assigns to us. We follow and apply the law, both statutory and precedential case law. Unless we have to decide an issue of "first impression" we do not "make" new law. It should be noted that our work is always subject to review by the Oklahoma Supreme Court.

I regret the politicization of electing, appointing and retaining judges and justices, but those are legislative and executive branch issues to deal with. Regardless of how judges are selected, we will continue to do our jobs as we always have. I cannot point to one "biggest issue" facing our court system.

Prince: There are several big issues facing Oklahoma's court system, including the various challenges with courthouse security; the need for more mental health services on a state-wide basis (not just for the larger metropolitan areas); and the exorbitant costs in attorneys' fees if a case goes to trial. From my discussions with trial judges across the State, however, I have learned that the biggest challenge they typically face from day to day is a shortage of court reporters. I understand that the

shortage of court reporters is responsible for some delays in the resolution of disputes at the trial level. An appellate court, like the Court of Civil Appeals, relies on the written record of proceedings to determine what occurred at the trial level and to make a principled decision on the merits of the appeal. In that regard, all judges must keep an open mind and faithfully and impartially carry out the assigned adjudicative duties in a reliable and consistent fashion. The need for a fully staffed corps of court reporters is essential to the proper functioning of the court system.

3. How do you think public access to the judicial branch could be improved? Do you think the Court of Civil Appeals should have a website, or at least a better online presence?

Bell: I have tried to open public access to our court by having our oral arguments open to the public. We always announce them on OSCN and I have also had hearings at the state's law schools to accommodate more people, if they want to attend. If we could livestream our hearings, that would be great, but the Court of Civil Appeals has no access to a budget. Our budget is totally controlled by the Supreme Court. I would LOVE to have a website, but we are limited in that regard.

Downing: I view efforts that increase the public access and online visibility of our courts to be a very positive thing for the people we serve. As a judge, I respect the fact that I must defer to our policymakers and our court administration and leadership as they make those efforts and decisions. But I can say that I fully support efforts that make it easier for the people to have information about their court system and the important work we are doing.

Goree: Our court's published opinions are public record and our oral arguments are open to the public. Information on both is accessible on the Oklahoma Supreme Court's website. A website specifically designed for the Oklahoma Court of Civil Appeals would be welcomed and helpful to the public.

Huber: Public access to the judicial branch could be improved by better informing the public of the resources already available. The Oklahoma judicial branch has a significant online presence, which is more cohesive and easier to navigate than many other states. The Oklahoma Supreme Court Network (OSCN) contains an extensive range of resources and information related to the Oklahoma court system, providing public access to case searches, dockets, court opinions, statutes, legal research, legal forms, as well as judicial profiles and court information. While the Court of Civil Appeals does not have a website, all Court of Civil Appeals published and unpublished opinions are available online. Anyone can receive daily emails of new court opinions by signing up at <https://www.oscn.net/maillinglist/>. I would add that the Oklahoma Supreme Court is currently in the process of implementing an electronic filing system for pleadings, which provides easier access to the court system.

Mitchell: No answer.

Prince: I personally would like to see a website dedicated to the Court of Civil Appeals. In that context, the Chief Justice reported earlier this year that the Supreme Court has commissioned its MIS staff to create an operating system that would enable all of the opinions of the Court of Civil Appeals, both published and unpublished, to be searchable and reviewable on www.oscn.net.

4. Is there anything else you think voters should know before the retention election?

Bell: I hope the voters know how serious the Court of Civil Appeals take their jobs and their work. I am proud of the caseload we complete and how we simply follow the law and resolve conflicts. All of the

Court of Civil Appeals judges that are up for retention this year are great judges and even better people.

Downing: It is important for voters to know who I am as a judge. My judicial temperament as a judge is grounded in the fact that I love all people and want the best for them no matter who they are or their circumstances. That perspective combined with my commitment to the rule of law, is what centers my fairness and respect for all parties and their counsel that appear before our court.

My judicial philosophy is very similar to that of the late Justice Antonin Scalia. He was appointed by President Ronald Reagan and viewed as being a major leader for textualism with original meaning. Basically, that means courts are to apply the laws according to the meaning of words as they are written in the text, specifically the meaning at the time they were enacted. That judicial philosophy seeks to avoid the possibility of outcome-based decisions, where judges are tempted to assign the ever-elusive intent of a legislature or assign an evolving meaning to words for modern society. I was an elected legislator prior to being a judge, and I strongly believe policy making belongs in the legislative branch and not the judicial branch.

The voters may also want to know who I am as a person when I am not wearing a judicial robe. I grew up in rural Oklahoma and was the first person in my family to get a law degree. My wife and I have been married for twenty-two years and have four children. We are active in our local church, and our faith is the most important thing to us. When I am not busy being a judge, or with my Army Reserve duties, I spend as much time as I can with my family. We believe the United States of America is the greatest country on Earth and patriotism is central to our family.

Goree: I'm blessed to serve the citizens of Oklahoma as a public servant.

Huber: Despite the challenges facing our judicial institutions, I am incredibly optimistic about the future of the Oklahoma courts and our ability to meet the ever-growing demand for an efficient, fair, and transparent court system.

Mitchell: Voters should know that the twelve judges on the Court of Civil Appeals are all hard-working, conscientious and serious about their work. To my knowledge, none of the judges on this court have ever been pressured to decide a case in a particular way. We may not always agree, but each of us is trying to follow the law to the best of our ability.

Prince: The role of the Court of Civil Appeals is to serve as Oklahoma's intermediate appellate court and is only assigned appeals in civil matters. The Court is comprised of twelve Judges, who work in panels of three Judges each, sitting in four separate divisions. Two divisions are in Oklahoma City and two divisions are in Tulsa. It was created, and remains, one court in two locations. As an intermediate appellate court, the Court of Civil Appeals doesn't necessarily have the final say in every case, as its decisions can be reviewed by the Supreme Court of Oklahoma. In order for such further review to occur, however, one of the parties must request the Supreme Court of Oklahoma to review the case and its decision on that issue is discretionary. Thus, there is a high degree of stability in the civil appellate process in Oklahoma because the majority of the opinions by the Court of Civil Appeals, in fact, become the final appellate decision in the case.