

Researching the judges we will be voting to retain or release in November 2018

Research compiled by Jordan Redman

(Please draw your own conclusions from the data presented.)

SUPREME COURT JUSTICES

First up: Patrick Wyrick.

He was appointed to this court by Republican Governor Mary Fallin on February 9, 2017, to succeed retired Justice Steven Taylor.

On November 17, 2017, Wyrick was named by President Trump as a potential nominee to the Supreme Court of the United States. On April 10, 2018, Trump nominated Wyrick to serve as a United States District Judge of the United States District Court for the Western District of Oklahoma. On May 23, 2018, a hearing on his nomination was held before the Senate Judiciary Committee. On June 14, 2018 his nomination was reported out of committee by a 11–10 vote. His nomination is currently pending before the full United States Senate.

He is also a member of the Federalist Society, an organization of conservatives and libertarians seeking reform of the current Law of the United States in accordance with a textualist or originalist interpretation of the U.S. Constitution.

I will happily be voting NO to retain Wyrick to the Oklahoma Supreme Court.

Next up: Noma D. Gurich.

She's only the third woman to be appointed to the Oklahoma Supreme Court. Justice Gurich has the distinction of receiving nominations to fill Judicial vacancies by four separate Oklahoma Governors, with two of them being Republican and two being Democrats.

In 2015, she voted in favor of removing the Ten Commandments Monument on the grounds of the Oklahoma State Capitol. (PRESCOTT v. OKLAHOMA CAPITOL PRESERVATION COMMISSION)

In 2015, she voted in favor of acknowledging the rights of a nonbiological parent in a same-sex relationship who has acted as a parent. (RAMEY v. SUTTON)

In 2016, she voted in favor of overturning an unconstitutional abortion law passed by the Oklahoma Legislature and signed by Fallin. (BURNS v. CLINE)

She did "CONCUR IN PART; DISSENT IN PART" of the 2018 Oklahoma Supreme Court case concerning the Oklahoma Taxpayers Unite petition (SQ799), which would have overturned a package of tax hikes for funding teacher pay raises and public schools. She did not join Wyrick and Winchester in writing an dissenting opinion, so it is not clear which parts she agreed or disagreed with. She made no public comment on the matter.

The Oklahoma Taxpayers Unite issue was a line in the sand for many (including me). Though it is difficult to base my opinion based on her ruling on this case alone,

considering there is no information indicating which parts of the case she agreed or disagreed with. I tried (without success) to get ahold of someone in the clerk's office to give me a little bit more information on her ruling here.

HOWEVER, she is less conservative in nature than the average Justice on the Oklahoma Supreme Court (according to Ballotpedia).

I am undecided in my vote to retain Justice Gurich in November. (But I am leaning towards voting to retain her.)

Next up: Yvonne Kauger.

Appointed by Governor Nigh in 1984, Justice Kauger has served on the Oklahoma Supreme Court ever since.

Awards:

- Kauger was inducted in the Oklahoma Women's Hall of Fame in 2001.
- Governor's Arts Awards
- Woman of the Year by the Oklahoma City Chapter of Business and Professional Women's Club (1984)
- Adopted by the Cheyenne-Arapaho tribes (1984)
- Selected by High Noon as Woman of the Year (1985)
- Honorary doctorate from Oklahoma City University (1991)
- Herbert Harley Award by the American Judicature Society (1999)
- Inducted into the Oklahoma Women's Hall of Fame (2001)
- District State-Federal Judicial Council Hall of Fame
- Washita County Hall of Fame

She is a cofounder of Red Earth, a non-profit 501(c)3 organization that promotes the traditions of American Indian arts and cultures through education, a premier festival, a museum and fine art markets.

In 2015, she voted in favor of removing the Ten Commandments Monument on the grounds of the Oklahoma State Capitol. (PRESCOTT v. OKLAHOMA CAPITOL PRESERVATION COMMISSION)

In 2015, she voted in favor of acknowledging the rights of a nonbiological parent in a same-sex relationship who has acted as a parent. (RAMEY v. SUTTON)

In 2016, she voted in favor of overturning an unconstitutional abortion law passed by the Oklahoma Legislature and signed by Fallin. (BURNS v. CLINE)

In 2018, she voted in favor of throwing out the Oklahoma Taxpayer Unite petition (SQ799), which would have overturned a package of tax hikes for funding teacher pay raises and public schools. (She sided with public education).

I will be voting to retain Justice Kauger in November.

Next up: James E. Edmondson.

He was appointed by Democratic Governor Brad Henry in 2003.

He is the son of Ed Edmondson, a former U.S. Congressman, and June Edmondson, a nephew of former U.S. Senator and Oklahoma Governor J. Howard Edmondson, and the brother of former state Attorney General (Democratic candidate for Governor) Drew Edmondson.

In 2015, he voted in favor of removing the Ten Commandments Monument on the grounds of the Oklahoma State Capitol. (PRESCOTT v. OKLAHOMA CAPITOL PRESERVATION COMMISSION)

In 2015, he voted in favor of acknowledging the rights of a nonbiological parent in a same-sex relationship who has acted as a parent. (RAMEY v. SUTTON)

In 2016, he voted in favor of overturning an unconstitutional abortion law passed by the Oklahoma Legislature and signed by Fallin. (BURNS v. CLINE)

In 2018, he voted in favor of throwing out the Oklahoma Taxpayer Unite petition (SQ799), which would have overturned a package of tax hikes for funding teacher pay raises and public schools. (He sided with public education).

(OKLAHOMA'S CHILDREN, OUR FUTURE, INC. v. COBURN)

Though he is conservative off the bench, his rulings prove to me that he is capable of ruling fairly.

I will be voting to retain Justice Edmondson in November.

Court of Criminal Appeals

First up: Dana Kuehn.

She was appointed by Gov. Mary Fallin in 2017. Before her appointment, she had 17 years of trial experience in criminal and civil divisions. She presided over criminal felony cases, including two death-penalty cases, before moving on to handle civil cases in 2009. (She sentenced Victor Cornell Miller to death in 2008. In 2013, the Court of Criminal Appeals modified his death sentence for one murder to life in prison without parole then directed a district court to resentence him on the other murder conviction. He no longer faces death).

When asked "As a member of the Oklahoma Court of Criminal Appeals, what do you propose to do about the disproportionate number of people of color given the death sentence as compared to other races?" She said "As a member of the Court, I am limited to reviewing the decisions made in the trial courts of the State. I follow the law when making thoughtful review of the record and arguments presented to make a decision, and am not a policy-maker or advocate."

Prior to taking the bench, Kuehn was a felony prosecutor for nearly 10 years with the Tulsa County District Attorney's office heading the Crimes Against Children Unit and serving as chief of the Juvenile Division.

Kuehn teaches Juvenile Law and Evidence Workshop at The University of Tulsa College of Law. She also has served as president of the Alumni Board and was awarded the W. Thomas Coffman Award for Community Service in 2017.

DISCLAIMER: Whether or not you want to keep ANY judges appointed by Fallin is 100% up to you. I am not overly hyped on the idea of keeping anyone she appointed during her time as governor. However, I do think we should take credentials and prior rulings into consideration when evaluating these Justices.

Next up: Scott Rowland.

He was appointed by Republican Governor Mary Fallin in 2017 to succeed former Judge Arlene Johnson.

Rowland served as the first assistant district attorney in Oklahoma County for almost 11 years. He also served as general counsel to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control and as assistant attorney general for the state of Oklahoma.

"There are a lot of people who surely believe prisons are full of marijuana possession cases," [Then Oklahoma County Assistant District Attorney] Scott Rowland said. "It's not true. What's true, instead, is you have to work very hard to go to prison on drug possession cases in Oklahoma, period." - 2014

The Oklahoman published an article titled '5 Things About Oklahoma's Incarceration Rate', which stated, "Drug possession is still the most common felony offense among people admitted to Oklahoma prisons, the Council of State Governments reported."

When asked "What is your view of the incarceration of large numbers of women in Oklahoma prisons?" He said, "As an appellate Judge, I decide every case based upon the evidence and the law applicable to it, without regard to my personal or political beliefs. The Oklahoma Code of Judicial Conduct cautions judges against giving opinions or beliefs about political or social issues which might come before them in future cases, and I am mindful of that as I attempt to respond to this question. With that said, there are very clear correlations between the rate at which Oklahoma's girls and women are abused, killed, and addicted and the incarceration rates, and I very much support efforts by policymakers to look at underlying causes of incarceration in an attempt to find ways of lowering those numbers."

Drugs and drug-related crimes, even simple possession, are some of the top reasons women enter Oklahoma's criminal justice system.

I will not be voting to retain Justice Rowland in November.

Next up: David B. Lewis.

He was appointed to the court on August 5, 2005, by Democratic Governor Brad Henry. He is the first African-American presiding judge of the Oklahoma Court of Criminal Appeals.

Lewis has served as board chairman of Reach Out and Read Oklahoma. He also has served on the Oklahoma Access to Justice Commission, Goodwill Industries of Lawton board of directors, Lawton Chamber of Commerce board of directors, Black Achievers

Program board of directors, Oklahoma Bar Association Professionalism Committee and Oklahoma Bar Association National Mock Trial Task Force.

He was inducted into the Order of the Owl at the University of Oklahoma College of Law in 2017. Lewis serves on the Board of Visitors of the University of Oklahoma College of Law, and is co-chair of the Bench and Bar Committee of the Oklahoma Bar Association. Lewis also serves on the Board of Directors for Girls Scouts of Western Oklahoma.

Related to his rulings, I found my eyebrow raised at one in particular. But it won't keep me from considering his retention.

Daniel Holtzclaw was convicted in December 2015 on 18 of 36 counts against him, including four counts of first-degree rape. He was acquitted of the other 18 counts. He was sentenced in January 2016 to 263 years in prison. He was accused of raping and sexually victimizing women while on his beat in a low-income Oklahoma City neighborhood.

The Oklahoma Court of Criminal Appeals denied a motion by two people to file a friend of the court brief in support of a former Oklahoma City police officer's appeal of his convictions on rape and other sex charges. The court voted 4-1 to deny the brief filed by Randall T. Coyne and J. Christian Adams on behalf of Holtzclaw. Coyne and Adams argued the "proposed brief will assist this Court with regard to both the facts and the law in resolving the issue of whether Holtzclaw, under these unique and troubling circumstances, received a fair trial." Judge David B. Lewis cast the dissenting vote, noting he would accept the brief and then decide the issue.

When asked "What is your view of the incarceration of large numbers of women in Oklahoma prisons?" He said, "I am aware, as are many Oklahomans, of the high incarceration rate of women in our state. As a member of the judiciary, I do not think it is appropriate to express any personal view on this matter. As an appellate court judge, my job is to review the individual cases that are appealed to my court. Decisions on public policy are best left to those who decide public policy."

With all the information considered, I will be voting to retain Justice Lewis in November.

Oklahoma Court of Civil Appeals

First up: Barbara G. Swinton

She was appointed to this court on September 14, 2016, by Republican Governor Mary Fallin to succeed retired Judge William Hetherington.

Swinton was appointed an Oklahoma County special judge in 1996. She was elected as a district judge in 2002. She was re-elected in 2010/2014 after running unopposed. Before that, she was a trial attorney with David W. Lee and Associates for a year, handling family law and federal civil rights cases. Previously, she practiced general civil and family law with Riggs, Abney, Neal, Turpen, Orbison and Lewis for four years.

She also teaches trial practice and pretrial litigation as an adjunct professor at the Oklahoma City University School of Law.

She has served as president of the Oklahoma County Bar Association, president of the Oklahoma Judicial Conference Executive Board, past chairman of the Oklahoma Judges Association, past co-chair of the OBA Bench and Bar Committee and as a member of the OBA Professionalism Committee. She has been awarded the Leadership in Law award from the *Journal Record* in 2007, and in 2015 she was awarded the Mona Salyer Lambird Spotlight Award.

When asked to describe her most difficult cases, she said, "Custody cases where both parents face challenges and the options for a safe and positive home environment are limited."

When asked who her judicial role models were, she said "Alma Wilson -the founder of Justice Alma Wilson Seeworth Academy, her vision for positive educational experiences for children involved in the juvenile justice system brought about an excellent educational opportunity for alternative education for central Oklahoma students. She shared my passion for access to justice, educational support for public school children, and an opportunity to give back to the community."

I will be voting to retain Judge Swinton in November.

Next up: Kenneth L. Buettner

Judge Buettner was appointed to the court by Republican Gov. Frank Keating and was sworn in on February 26, 1996. Buettner served as the chief judge in 2005.

Judge Buettner's civic activities include participation in Leadership Edmond Class IX and Leadership Oklahoma Class XVI. He is a trustee of the Oklahoma Foundation for Excellence, serving as Co-chair of the Outreach Committee. He was a trustee (1995-2001) and President of the Edmond Public Schools Foundation (1997). He is also a member of St. John the Baptist Catholic Church and has served on its Parish Council, Finance Committee, Board of Christian Education, Building Committee and Peru Mission Board. From 1990-2003, he was an adult volunteer with the middle school and high school youth groups.

In 2016, Buettner was selected to a one-year term as vice chief judge of the court. He has since been selected as Chief Judge for 2018.

When asked to describe his most difficult court cases, he said "Our court handles all types of civil cases, including personal injury, contracts, workers compensation, real property conflicts, and family law disputes. However, the most difficult class of cases in which the government seeks to terminate the parental rights of parents to their children. This often occurs where abuse has occurred, or the children have been found in

deplorable conditions, or the children are otherwise deprived and the parents cannot or will not correct the conditions. When these cases reach the appellate courts, it means that the factual bases of the actions are fairly extreme. However, the decision whether to terminate parental rights always has constitutional implications balancing the rights of the parents versus the interests of the state to protect children.”

When asked who his judicial role models were, he said “I have always admired Judge John Amick, a retired District Court Judge in Oklahoma County. My first solo trial in Oklahoma was in front of Judge Amick. He was so professional, courteous, and even-handed to an obviously new attorney, as well as the other participants in the trial, that I have tried to emulate those qualities throughout my professional career. I also admire Chief Justice John Marshall of the United States Supreme Court who, quite courageously, in the early years of our country, established the proper role of the courts under the United States Constitution. His decision took on President Jefferson and established the principle that the Supreme Court could hold acts of Congress unconstitutional.”

As he presented himself for retention in 2012, he was asked how he could ensure fairness for all parties in the proceedings. He answered by explaining his philosophy on the needs of the job, "Our job is to review the trial court judgment and the record of the case to determine whether an error has occurred in the trial court process or the application of law to the case. In performing that duty, we put on the blindfold of Lady Justice to disregard the status of the parties, or the reputation of the attorneys, or the winds of public opinion, and apply the law to the case. If we do that in a timely manner, all parties should feel that the appellate review of their case has been fair. That has been my operating principle for the last 16 years."

I will be voting to retain Judge Buettner in November.

Next up: Robert “Bobby” Bell

He was appointed to this position in June 2005 by Democratic Gov. Brad Henry.

For thirteen years, Judge Bell was in private practice in Norman, Oklahoma. Also during that time he served as municipal judge for the cities of Moore, Purcell, Blanchard, Noble, and Broken Arrow.

In 1994, at age 27, Bell was appointed to the bench, becoming the youngest sitting judge in Oklahoma. Since 1998, he has served as adjunct professor at the University of Oklahoma College of Law. He was appointed judge on the court of civil appeals in June 2005

Bell's most notable ruling occurred in *Ward & Lee, P.L.C. v. City of Claremore*, where the appeals panel overturned a lower court decision because the police had refused to

release the patrol car's dash-cam video of a DUI arrest. Judge Bell showed that the evidence in question was not exempted from the Open Records Act, as claimed by the police, and must be released on request.

This determination resulted in the Civil Appeals Court overturning the District Court verdict, which was directed to retry the case with the formerly missing evidence. The appeals verdict also noted that, "...any person denied access to a public record and who successfully brings a civil action for declarative or injunctive relief is entitled to reasonable attorney fees. Fabian, 2004 OK 67 at 19, 100 P.3d at 707." The appellate court further ordered the District Court to determine the "reasonable attorney's fees to which the appellant is entitled.

When asked to describe his most difficult cases, he said, "I have had many tough cases in my career, but the most difficult are the ones involving children. Our court decides child neglect cases and as a judge, one must follow the law. My judicial duty means interpreting laws straightforwardly, not gratifying my own subjective sense of fairness. If we have to order a child out of a harmful situation, we will not hesitate to terminate a neglectful parent's rights, but we must read the Constitution as it is written and apply the law. Although parents have a right to the care and custody of their children, they must adequately fulfill their obligation or risk losing those precious rights."

When asked who his judicial role models were, he said, "This is easy. The late Oklahoma Supreme Court Justice Marian Opala was a character and sometimes he could be very difficult, but he always had a love of the law and the Constitution. His background was the focus of an essay I wrote for *Judicature*, a scholarly journal on judging. He grew up in Nazi controlled Poland and fought the Germans by serving in the Polish Underground. After the war, he came to Oklahoma and worked hard becoming not only a lawyer but eventually, the Chief Justice of the Oklahoma Supreme Court. I admired his grit and determination to be a fair judge, proud Oklahoman and a great American."

(Background on Opala -- He was appointed to the Court's District 3 seat by Governor David L. Boren in 1978, and retained by the voters in 1980, 1982, 1988, 1994, 2000 and 2006. He served as the Court's Chief Justice from 1991 to 1992. In 2000, Opala was inducted into the Oklahoma Hall of Fame. Throughout his career he has been known as a strong advocate of First Amendment rights, a commitment he attributes to his experiences as a youth in Nazi-occupied Poland. A group called Freedom of Information Oklahoma presents the *Marian Opala First Amendment Award* every year to an Oklahoman who has "*promoted education about or protection of the individual rights guaranteed under the First Amendment*". In January 2005, Opala, then 83 years old and next in line once again to become Chief Justice, filed a federal lawsuit against his colleagues, alleging that they changed Oklahoma Supreme Court rules for succession to chief justice thereby arbitrarily allowing Chief Justice Joseph M. Watt to serve unprecedented consecutive terms. In July 2006, a federal appeals court dismissed Opala's lawsuit "with prejudice".)

I will be voting to retain Judge Bell in November.

Next up: E. Bay Mitchell III (Bay Mitchell)

Republican Governor Frank Keating appointed him to this position in 2002.

After law school in 1979, Judge Mitchell began his legal career as an attorney in private practice. In 1993, he became a staff attorney for Judge Carl Jones of the Oklahoma Court of Civil Appeals. He worked in this capacity until he was appointed to the court in 2002.

Judge Mitchell is a member of the Oklahoma County, Garfield County and Oklahoma Bar Associations. He has served on the Board of Directors of the Oklahoma County Bar Association and as Chairman of its Continuing Legal Education Committee and Bench and Bar Committee.

When asked how can you ensure a fair judiciary for all parties involved, he said “To ensure that the judicial process works for everyone involved, judges must be familiar with and be prepared to require compliance with federal and state constitutional protections. The Oklahoma statutes and court rules also provide appropriate procedures that must be followed in every case and applied consistently.

Even when it is inconvenient and will cause delay, there is no excuse for not zealously protecting the due process rights of all parties involved. Judges at all levels must be on guard to ensure all parties have appropriate notice of all proceedings and an opportunity to be heard. It is also important for litigants to feel they are being given the same rights, considerations and courtesies that anyone else would receive.

As a Court of Civil Appeals judge, I primarily review the records of the trial court proceedings and appellate filings to determine if any *reversible error* exists. Regardless of the size or nature of the case, I try to reach a decision and write an opinion that is clear, well-reasoned and consistent with applicable law and prior precedent. It is important to me that litigants and their attorneys on the losing side feel the appellate judges were fair and unbiased in their treatment of the appeal; that the judges listened to and carefully considered their positions and arguments, but ruled against them for justifiable and understandable reasons. I believe clear and well-reasoned written opinions will minimize the feelings of litigants that they were treated unfairly or arbitrarily.”

When asked to describe his most difficult cases, he said, “Just this year I was assigned to be a Special Justice on the Oklahoma Supreme Court to fill in for one of the sitting Justices who could not participate. The case to which I was assigned involved the constitutionality of a section of Oklahoma's Administrative Workers' Compensation Act. The issues were very difficult, the attorneys involved were very good and compelling arguments were made for each side. Among the Justices, there were also many

different opinions on how best to decide the case. It was very challenging and stressful. As a category, the appeals we review where a parent's rights have been terminated to his/her children are frequently difficult and emotional. Oftentimes the parents deserve to have their children taken away from them permanently. Sometimes they don't. But the children are always victims. It is always very sad."

When asked who his judicial role models were, he said, "As a law student, I interned for Oklahoma Supreme Justice Pat Irwin (now deceased). I was impressed by his civility, professionalism and his dedication to his work. He was quiet and modest, not needing to draw attention to himself. He was my first judicial mentor and probably my most enduring judicial role model."

I will be voting to retain Judge Mitchell in November.

Next up: Brian J. Goree

He was appointed to the court by Republican Governor Mary Fallin in August 2012 to succeed Judge Carol Hansen, who resigned in January 2012.

Goree received a bachelor's degree in chemistry from the University of Oklahoma and a law degree from the University of Tulsa.

Goree practiced law beginning in 1989, primarily focusing on litigation research and writing. He worked as an associate at Secrest, Hill and Butler and was the head of research and writing at Latham, Wagner, Steele and Lehman, a civil defense firm in Tulsa. At the time of his appointment to the court of civil appeals, Judge Goree was working at Toon Osmond PLLC.

There was very little information available for Judge Goree. I couldn't find any public comment (like I was able to with the other judges). There is also very little information about his civil engagement in the community (if there is any).

Because of the general lack of information available, I will not be voting to retain Judge Goree in November.