

DECISION 2006

Voters to choose judges, justices of the peace

Beside electing two justices to the Nevada Supreme Court, voters in Washoe County will choose local judges.

Judge Bridget Robb Peck and Reno lawyer Patrick Flanagan are running for a seat on the Washoe District Court in Dept. 7.

In Sparks Municipal Court Dept. 2, former Mayor Jim Spoo faces Doug Nicholson. Both are Reno attorneys but live in Sparks. Nicholson has served as a judge pro-tempore on the Sparks Municipal Court for several years. Judge Larry Sage is retiring.

Also in Sparks, Justice of the Peace Susan Deriso is seeking re-election to the job she's had since 2000. She is challenged by David Sinclair, a business owner.

Also this year is a contest for justice of the peace serving Reno and Verdi. Reno City Attorney Patricia Lynch and Senior Deputy Attorney General Vicky Oldenburg beat another candidate in the August primary.

They want to replace Justice of the Peace Fidel Salcedo, who announced his retirement after serving 21 years.

In the countywide Washoe District Court race, both Flanagan and Peck



HANDOUT

Patrick Flanagan



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Bridget Peck

were finalists when a judicial selection commission made its recommendations to replace Judge Peter Breen.

Gov. Kenny Guinn chose Peck to replace Breen, who retired. Peck came to the court on May 8 after 19 years as a trial lawyer.

About 50 percent of her work was in the district court, she says. The other half was in the federal court, primarily in the bankruptcy court.

Before her appointment, she was the managing shareholder at Beesley, Peck & Matteoni Ltd.

Flanagan has been chief deputy public defender in Washoe County, assistant federal public defender and is currently a partner in the firm of Hale Lane Peck Dennison and Howard.

Flanagan says he has tried or handled every type of legal action that comes before the district.



HANDOUT

Patricia Lynch



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Vicky Oldenburg



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Doug Nicholson



HANDOUT

Jim Spoo

Inmate's death-penalty appeal delayed

Former lawyer running against judge in election

BY MARTHA BELLISLE
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A Washoe District Court judge postponed a death-penalty appeal hearing Monday for convicted killer David Middleton because his former lawyer is running against the judge in the November election, and the appeal claims the lawyer did an inadequate job at the murder trial.

Judge Bridget Robb Peck continued the post-conviction hearing until after the Nov. 7 election, in which she is opposed by Middleton's previous lawyer, Patrick Flanagan.

"This situation does raise the potential appearance of impropriety, so continuing the matter is appropriate," Peck said.

Characterized as sadist

Middleton was found guilty in 1997 of killing Katherine Powell, a 45-year-old Sun Valley elementary school teacher, and Thelma Amparo Davila, a 42-year-old casino worker from Sparks.

Prosecutors characterized Middleton as a sadist who favored rough sex.

Police found restraint devices and sex toys in Middleton's storage unit.

Investigators also found a refrigerator with air holes that they believe Powell was held in while still alive.

Middleton was sentenced to death, and the Nevada Supreme Court upheld the conviction and sentence in 1998.

The appeals

The next step in his appeal process was a petition for post-conviction relief, where his defense during his trial is scrutinized for any problems



MARILYN NEWTON/RENO-GAZETTE-JOURNAL

Convicted murderer David Middleton talks with Nathalie Huynh, one of his attorneys, at a post-conviction relief hearing Monday before Judge Bridget Robb Peck. She continued the case until after the elections since her opponent, Patrick Flanagan is one of the attorneys named by Middleton as being ineffective during his trial. Middleton was convicted in 1997 for the murders of Katherine Powell and Thelma Amparo Davila and sentenced to death.

'This situation does raise the potential appearance of impropriety, so continuing the matter is appropriate.'

BRIDGET ROBB PECK ■ Washoe District Court judge

or inadequacies.

Middleton had gone through the post-conviction process in 2002, but the Nevada Supreme Court ordered that a new petition be filed after finding that his previous appellate lawyer, Bruce Lindsay, mishandled the case.

His new appellate lawyers, Tom Qualls and Nathalie Huynh, argued in a new petition that Middleton's defense team during the trial provided "ineffective assistance" and his conviction should be thrown out.

The petition targets Fred

Pinkerton and Flanagan, as well as John Petty, who handled his initial appeal, Qualls said.

Gov. Kenny Guinn appointed Peck to her post in Department 7 after Judge Peter Breen retired.

Flanagan was one of the three lawyers nominated to the governor for consideration by the Nevada Commission on Judicial Selection to replace Breen.

Since Flanagan and Peck are actively campaigning against each other, Qualls said they asked Peck to postpone the hearing to avoid any appearances of bias against Flanagan in Middleton's petition, and she agreed.

LETTERS TO THE EDITOR

FRIDAY, OCTOBER 13, 2006

Justice system needs Flanagan's experience

I think your endorsement of candidate Peck for a Washoe County judgeship [Our Opinion, Oct. 3] was not well thought out.

With your endless coverage of the Mack and Augustine cases, along with the school shootings, random killings, etc., it would seem that you would be aware of the public's interest in the criminal justice system and its players, like judges.

Both Patrick Flanagan and Bridget Peck are, as you said, well qualified attorneys. The difference is in their fields of endeavor. Flanagan has prosecuted and defended cases at every level of the justice system, including the U.S.

Supreme Court. He is very aware of all the nuances used to sway judicial decisions. That is critical experience for a judge to have.

Peck's excellent background is in bankruptcy with little trial experience.

The public is interested in swift and fair justice. This is not the time for "on-the-job" training.

Congratulations to both candidates for a positive campaign.

Thomas Cassidy, Reno

YOUR TURN

Judge needs criminal and civil experience

BY PATRICK FLANAGAN

I am a candidate for Washoe District Court judge.

While I appreciate the Editorial Board's position, I respectfully disagree with their endorsement. I believe that the position of District Court judge requires civil and criminal jury trial experience, innovative judicial leadership and a commitment to justice.

With all due respect to my opponent, I believe that I am most qualified to be Washoe County District judge in Department 7.

I have broad experience in the criminal and civil jury trials commonly found in district court. I have tried many cases before the state and federal district court, Nevada Supreme Court and the United States Supreme Court.



HANDOUT
Patrick Flanagan

I believe being a judge is not just a career choice, it's an opportunity to bring years of courtroom experience to public office for the benefit of the residents of Washoe County.

I have practiced law in Washoe County since 1979. As Washoe County's chief deputy public defender, I oversaw many cases before the Nevada Supreme Court, including constitutional and death penalty cases.

I have briefed and argued cases from jury selection to jury verdict, post-conviction and appeal.

Since 1990, I have been in private practice where I have managed a large case load in the state and federal courts. I have handled cases from a traffic court case in Reno Municipal Court to a death penalty case in the U.S. Supreme Court as both plaintiff and defense counsel. I sit as an arbitrator in civil cases in Douglas, Carson and Washoe counties.

In addition, I have been a leader in the legal community. I was voted by my peers to be president of the Washoe County Bar Association, president of the State Bar of Nevada, president of the Federal Bar Association's Nevada Chapter.

As a leader, I expanded opportunities for lawyers and judges to provide more pro bono work for underprivileged Nevadans.

I was president of the Board of Washoe Legal Services, which provides free legal advice to those who need legal services the most but can afford it the least. I still accept pro bono cases in state and federal courts.

I have raised my family here in Washoe County and believe in giving back to my community.

As president of the Reno Tennis Club, I worked with the city and county to improve parks and recreational facilities for children and adults. I was president of my children's school board and am active in my church and many community organizations.

I am honored to have the support of former U.S. Sen. and Gov. Richard Bryan, former Gov. Robert List, Washoe County Sheriff Dennis Balaam, District Attorney Richard Gammick, the Washoe County public defender and every major state and local law enforcement agency.

I am a candidate for Washoe County judge because I believe I have that courtroom experience, that proven leadership and that commitment to justice required of a district court judge.

I most respectfully ask for your vote on Election Day.

Patrick Flanagan is a candidate for Washoe District Court, Department 7.

Committee dismisses

complaint NDOT should start over again on bridge the right cor
paperwork.
If heterose

A suggestion NDOT

BY MARTHA BELLISLE

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A state committee that oversees judicial election campaigns investigated two complaints filed by Washoe District Judge Bridget Robb Peck against her opponent, but found no unfair practices in either case.

Peck was appointed by Gov. Kenny Guinn in Department 7 this year with the retirement of Judge Peter Breen. She is running for a two-year term against Reno lawyer Patrick Flanagan, one of the three finalists for the governor's appointment.

The first complaint Peck filed with the Standing Committee

on Judicial Ethics and Election Practices concerned a statement Flanagan made in the Reno Gazette-Journal's Voter Guide.

In the advertisement, Flanagan used part of an editorial that ran on Oct. 3. It said: "Flanagan also has a wide breadth of experience and appears to be a good candidate for a judgeship ..."

Peck complained that the quote was not complete because it left off the words "in the future" that had finished that sentence in the editorial. The complaint said that Flanagan knowingly misrepresented the newspaper's endorsement of Peck.

But the committee found that although the words were inten-

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Flanagan

Peck

RGJ FILE

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tionally omitted, their absence did not turn the sentence into an untrue endorsement by the newspaper. Therefore, the committee said, it found that no unfair election practice had occurred.

The second complaint involved radio ads that ran in October. A statement at the end of the ads said "Paid for by Patrick Flanagan, District Court Judge, Dept. 7" implying that he was running as an incumbent.

Flanagan's public relations consultants testified that they had prepared the radio ads and the final script ended with the tag line: "Paid for by the committee to elect Patrick Flanagan, Washoe County District Judge, Department 7."

This was sent electronically to radio stations, they said. The production of the ads was finished on Oct. 11 and sent to Flanagan. But he said he did not

listen to them. His consultants heard the ads, but did not notice the omission of the words "the committee to elect" in the final version.

After Flanagan received word on Oct. 24 about the misleading ad, he said he contacted his consultants to see how the ad would be fixed and called Peck to say he would have it fixed the next day.

The ad was not immediately pulled and continued to run, even though the radio stations were e-mailed the revised ad. The new version was finally on the air by the end of October.

The committee concluded that Flanagan did not know

about the the incorrect tag line on the ad but said he accepted full responsibility.

While it was not clear why the incorrect ad continued to be aired, the committee said that Peck failed to show that Flanagan violated judicial campaign ethics by allowing the ad to continue to run on his Web site.

"Therefore, the committee concludes that (the judicial canon) has not been violated with respect to the radio advertisement, and that no unfair election practice has occurred," they said in the report released Friday.

Washoe district judges are paid \$130,000 a year.