

Politics and the Pennsylvania Supreme Court: Please Vote on Nov. 7!

By Jacqueline Sailer*

It's election season in Pennsylvania. One of two candidates for the open Pennsylvania Supreme Court seat will be chosen on November 7. The Pennsylvania Supreme Court is one of the few state supreme courts whose members are elected by regular voters to 10-year terms. (They can be reappointed to new terms, but they must retire from the bench when they reach 75.)

A seat on the Pennsylvania Supreme Court is now open. Voters will elect the candidate to fill that seat on November 7, 2023. If you haven't already, mark that date and **please vote**.

The two state Supreme Court candidates are Daniel McCaffery (Democrat) and Carolyn Carluccio (Republican).

This link to the Philadelphia Inquirer helps to sort out who is running for judicial office in Pennsylvania.

<https://www.inquirer.com/politics/election/inq2/pa-judicial-races-supreme-court-superior-commonwealth-20231017.html>

Only seven judges sit on the PA Supreme Court. It currently consists of three women and three men; four Democrats and two Republicans.

A review of caselaw shows that Democrats sitting on the bench have been largely responsible for the jurisprudential shift favoring constitutional environmental rights that were accorded Pennsylvanians under Pennsylvania's Green Amendment (Article I, § 27).

In 2013 Justices Todd and McCafferty, both Democrats, were the only judges to fully support Chief Justice Castille's (Republican) landmark *Robinson Township v. Pennsylvania Public Utility Commission* decision, declaring Act 13 of 2012 (sweeping pro-fracking legislation) unconstitutional and creating a new framework for evaluating environmental rights under the Pennsylvania Constitution's Green Amendment.

In 2017 Democrats Justices Todd, Dougherty, and Wecht formed a majority with Democratic Justice Donohue in *Pennsylvania Environmental Defense Fund v. Commonwealth*, which declared unconstitutional state legislation that diverted proceeds from gas leases to general state funds and away from funds specifically set up to cover environmental cleanup costs. It also firmly established *Robinson* as binding precedent on State environmental rights jurisprudence.

In 2023, Democrat Justice Wecht, joined by Democrat Justices Todd, Dougherty, and Donohue, penned a decision that made it easier for nonprofits and individuals to recover legal fees and expenses incurred in expensive environmental rights cases under the Clean Streams Law. Notably, Republican Justice Mundy dissented. Republican Justice Brobson abstained because he was the lower court judge whose decision the Supreme Court reversed. Justice Brobson joined the Pennsylvania Supreme Court in 2022.

The upcoming Supreme Court judge election is important. Please vote.

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