

JUSTICE GARY R. WADE

Recommendation: RETAIN

Commission Vote: 9 FOR RETENTION • 0 FOR REPLACEMENT

Legal Education and Experience

Justice Gary R. Wade received a law degree from the University of Tennessee College of Law in 1973. He practiced law in Sevierville from 1973 to 1987. Justice Wade was appointed to the Court of Criminal Appeals in 1987, was elected in 1988, and was re-elected in 1990, 1998 and 2006. He attended the New York University Institute of Judicial Administration. Justice Wade served as Presiding Judge of the Tennessee Court of Criminal Appeals from May 1, 1998 until August 31, 2006. Justice Wade was appointed by the governor to begin serving on the Supreme Court effective September 1, 2006. He was elected in 2008, and currently serves as Chief Justice.

Service to the Profession

Chief Justice Wade is a Fellow of the Tennessee Bar Foundation. He is a member of the Hamilton Burnett American Inn of Court. He is a member and past President of the Tennessee Judicial Conference, a member of the Knoxville Bar Association, a past member of the Tennessee Sentencing Commission and past member of the Commission on the Future of the Tennessee Judicial System. Chief Justice Wade served on the Governor's Task Force on Sentencing. In 2004 he was given the Judicial Excellence Award by the Knoxville Bar Association and was named Appellate Judge of the Year by the American Board of Trial Advocates. He is a Fellow of both the Knoxville and American Bar Associations, has authored legal publications and is a frequent lecturer on legal topics.

Survey Results and Interview

Chief Justice Wade's overall survey ratings from appellate judges, attorneys, and court personnel were good

to excellent. Appellate and trial judges rated him excellent on his participation in oral argument, on his written opinions, and on his administrative and general performance. In his interview, Chief Justice Wade expressed deep commitment to the Commission about his new responsibilities as a Justice on the Tennessee Supreme Court.

Comments and Recommendation

Canon 4.1 of the Code of Judicial Conduct admonishes judges to not "publicly endorse or oppose a candidate for any public office." The Judicial Performance Evaluation Commission was created by the legislature as part of a statutory structure that seeks to reach a compromise between retention elections and contested races. Accordingly, each of the judges appearing before this Commission were candidates for public office within the meaning of Canon 4.1. Several members of this Commission were troubled by published statements attributed to the Chief Justice which, if accurate, amounted to active endorsement and public lobbying of this Commission to retain each and every judicial candidate irrespective of the Commission's preliminary votes applying the evaluation criteria of Supreme Court Rule 27 § 3. Although the Chief Justice was subsequently quoted in media reports expressing his support for the Commission's work, several members of this Commission question whether the Chief Justice's earlier public comments and advocacy efforts were appropriate.

The Commission was impressed with Justice Wade's professed commitments to judicial restraint and adherence to original intent in construing legislative and constitutional provisions. Justice Wade expressed the view that the court's function of developing 'new law' was narrowly confined to the evolution of the common law,

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and not a license to substitute the Court's view of social policy in place of the view expressed through legislation. Moreover, Justice Wade professed a jurisprudential philosophy of deference to the co-equal branches of state government when those branches exercise their legislative and executive functions.

The Commission unanimously recommends Justice Gary R. Wade be retained on the Tennessee Supreme Court.

Justice Wade's Response

I have been honored to serve the people of Tennessee as a Supreme Court Justice and sincerely appreciate the unanimous endorsement of the Judicial Performance Evaluation Commission.