



Grand Rapids LEGAL NEWS

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Justice Weaver and co-author talk about Judicial Deceit to NALS



(Left) Justice Elizabeth Weaver addresses the NALS group. (Right) Dr. David Schock, who assisted Justice Weaver in writing Judicial Deceit, is a well-known documentary filmmaker in his own right.

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Legal News



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Former Chief Justice of the Michigan Supreme Court Elizabeth “Betty” Weaver and author David Schock tag-teamed a presentation before the NALS legal professional group last Thursday on the book they wrote together about her days on the Supreme Court.

(Please note: the purpose of this Grand Rapids Legal News article is to report on the NALS event and the book Judicial Deceit. It was outside our scope to fact-check the book, with a few readily-accessible exceptions. We welcome and will publish any reasonable response to the facts or narrative in Judicial Deceit.)

After an introduction by NALS presi-

dent Wil Antonides, Dr. David B. Schock told of meeting Justice Weaver years ago.

Schock is well-known for having created a 2004 documentary, Who Killed Janet Chandler?, which ultimately led to solving the 25-year-old mystery of the brutal death of Chandler, a Hope College student. He was a professor at Hope at the time, and Hope students helped him make the film.

Since then, he has made additional cold-case films. Another of these cases is coming close to resolution, as detailed on his website, www.delayedjustice.com. His films cover a variety of other topics, including Civil War Native American sharpshooters, and Michigan’s Klan.

Schock and a videographer shot some survey footage for an educational video which indicated how little people knew about the court system — someone affirms that probate court is the place that sets up probation — and decided it would be a good idea to have a Supreme Court Justice correct the misconceptions on-camera. People associated with the project suggested Justice Weaver,

After filming her excellent responses, Schock, Weaver and her intern had dinner. Weaver was forthcoming about what was going on at the Supreme Court. According to the two of them at the NALS luncheon, the justice said, “I’m sure you would think that the Michigan Su-

preme Court is the most fair, the most pro-

fessional, the most orderly and the most just of all places.” When Schock nodded yes, she replied, “Well, that’s not true.”

After her retirement, Justice Weaver took Schock up on his offer to help her tell her story. Judicial Deceit is the result, a 764-page book filled with well-documented instances of the Supreme Court’s “tyranny and unnecessary secrecy” under majority leadership of Engler appointees.

Perhaps most appalling to Justice Weaver is that she, as a Republican-leaning independent, was originally very supportive of these justices and counted them among her friends.

Although portions of the book go into specific cases where Weaver thought procedures were amiss and faced harsh criticism from her colleagues for what she said in her dissent, there are also tales of unfair treatment of personnel and uneven handling of grievances against judges.

Often, these cases and disputes involve West Michigan people of good reputation. For example, the case *In re JK*, based on a dispute concerning the statute about when the child of someone who has had parental rights terminated is available for adoption, resulted in reversing a decision made by Judge Patricia Gardner. Weaver and others felt the law was explicit in allowing such adoption as soon as a challenge in the Court

of Appeals had run its course, which is what Judge Gardner followed. However, the majority construed the “appeal” to include any potential review including the Supreme Court.

For Weaver, that constituted rewriting the law from the bench. And in later years, the Supreme Court refused to appoint Gardner as Chief Judge of the Kent County Probate Court, despite the support of the other judges. Instead they took the unusual step of appointing Paul Sullivan from the Circuit Court, who himself said in a memo that he thought Judge Gardner was a better choice. In the end, the majority prevailed.

There are a lot of West Michigan connections. Others named in *Judicial Deceit* as having been dealt with unfairly include Kevin Bowling, former head of the Michigan Judicial Institute and now Ottawa County Circuit Court Administrator. And there was her 2009 lunch with local attorney Jon Muth, her attorney, when she allegedly told him about unfair treatment of local judge Steven Servaas — an allegation both denied — which came under consideration in a complaint filed against her with the Judicial Tenure Commission.

Kevin Bowling has gone on to thrive in his current position and contribute heavily in national service. He was President of the National Association for Court Management in 2011-2012 and is often called on to speak at such organizations as the National Judicial College and the National Center for State Courts, Institute for Court Management. “Luckily I’ve got a fabulous team of judges here who are very supportive of that work,” Bowling comments.

Muth, now retired from Miller Johnson but continuing mediation practice, has also fared well, named 2011 Lawyer of the Year by Michigan Lawyers Weekly among other honors.

Many problems arose, Weaver felt, from the expanding power of Carl Gromek, now also retired. When Maura Corrigan was Chief Justice, she created a chief of staff position and filled it with Gromek; he later held both that position and served as State Court Administrator. In addition, the dual appointment deal was struck behind closed doors, as Weaver tells it.

Another substantial issue for Justice Weaver was the lack of a written policy for recusal of justices. She felt very strongly that such was needed to maintain the trust of the public, and took the approach that if indeed a justice was asked to step down and refused, he or she must support that decision in writing. Other justices agreed to a written policy, but Weaver felt it was weak. It was at that point, in 2007, that the majority instituted a “gag order” against Justice Weaver.

Though much has been said about Weaver’s motivations for writing *Judicial Deceit*, she told the audience at NALS, “After I left the court, I gave it a year. I didn’t want to write this book, but then I thought about the great advice, both in the Bible and in other wisdom, that if you are a steward of something and you see a danger, then it is your duty to let people know the danger.”

At the presentation, Justice Weaver seemed to care strongly about promulgating her plan for reforming the Michigan Supreme Court. As Schock called for questions, Weaver said with a smile, “One of the best questions you could ask me is about my seven-point plan for reform.”

The plan — which includes the method by which a change would be made, that is, legislation or constitutional amendment — calls for:

- Eliminating political party nominations for candidates, substituting a petition method like the Court of Appeals;
- Limiting Supreme Court terms to one (with a maximums of 14 years), with no justice

able to run for re-election;

—Establishing a Qualifications Commission of 30-40 members, broadly representative of the stakeholders in the justice system;

—Requiring transparency and accountability in campaign finance reporting;

—Providing public funding for campaigns;

—Dividing the state into seven districts with one justice elected from each district; and

—Increasing transparency and eliminating unnecessary secrecy in the Supreme Court deliberations. This recommendation acknowledges that there is a need for temporary secrecy while pending proceedings take place.

Many attendees bought a copy of Judicial Deceit and each received a sheet detailing these recommendations.

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