

LIBERTY CITY LESBIAN, GAY, BISEXUAL AND TRANSGENDER DEMOCRATIC CLUB

2009 JUDICIAL PRIMARY ELECTION QUESTIONNAIRE

Name: Charles Hayden Office Sought: Municipal Court Date: April 1, 2009

1) What is your experience with the LGBT community both generally and/or professionally?

I have both family and friends that have identified themselves as members of the LGBT community. Additionally, both my campaign manager and campaign finance director are members of the LGBT community.

2) How have you advanced, through professional and personal achievements, the rights of the LGBT community, racial and ethnic minorities, and persons with disabilities?

I have hired and supported members of the LGBT community in the workplace (United States EPA), academic institutions (Antioch School of Law) and in the community (Mount Airy and Wyncote).

3) Do you support the rights of LGBT people to the following:

a. Marriage?

Yes. I personally believe same-sex couples should be afforded all of the same rights and responsibilities that exist for heterosexual married couples. I believe that equality can only ultimately be achieved through full marriage rights. However, I will uphold the existing law until it is changed.

b. Civil Unions?

I believe civil unions are a short term legislative solution until same-sex couples are afforded all of the same rights and responsibilities that exist for heterosexual married couples. Creating separate institutions for same-sex couples and opposite-sex couples is reminiscent of "separate but equal."

c. Domestic Partnership?

Yes. But again, I believe domestic partnerships are only a short term solution adopted by local governments and private sector institutions until same-sex couples are afforded all of the same rights and responsibilities that exist for heterosexual married couples.

d. Second-parent adoption?

Yes. Every child deserves a welcoming, loving home and LGBT individuals and families are equally prepared to offer such an environment.

Pennsylvania laws currently allow anyone the right to adopt a child regardless of their sexual orientation. That includes single lesbians and gay men as well as couples in same-sex relationships. Pennsylvania also allows second-parent adoption

granting one partner in a same-sex relationship the right to adopt the child of the other partner.

However, it is my understanding that ignorance or bias can sometimes make adoption difficult for members of the LGBT community, especially for transgender individuals. As an adoptive parent I feel strongly about this issue.

e. Protection from workplace discrimination?

Absolutely. While Philadelphia citizens are protected from discrimination in housing and the workplace through the Fair Practices Ordinance, many LGBT Citizens across the state have no legal recourse should they be fired from their job or denied housing because of their sexual orientation or gender identity or expression.

Just this month, the House State Government Committee passed HB 300 which would amend the Pennsylvania Human Relations Act to include sexual orientation and gender identity and expression; hopefully this legislation will be passed.

f. Protection from housing discrimination?

Yes. See my answer above.

g. Protection from acts of violence based on their sexual orientation or gender identity?

Yes, of course. All citizens have a right to live their lives free of the threat of violence against them.

4) Do you consider transgender rights a civil rights issue? Explain your answer.

Yes. I believe that transgender rights are as much a civil rights issue as gender equality. I am aware, however, that while advances have been made to protect the rights of lesbian and gays, those in the transgender community are often left behind, even suffering discrimination within the broader LGBT community.

Transgender people face severe discrimination based on their gender identity and expression. It is my understanding that transgender individuals who live openly face a higher rate of unemployment than others because of this bias, and are often the target of discrimination in housing and the workplace.

4) How should a judge support public accommodations for transgender individuals appearing before them or otherwise within the criminal justice system?

It is the government's responsibility to provide for the safety and well being of those it incarcerates. When trying to determine the action that is in the best interest of an individual's health and safety, many questions will arise pertaining to Transgender or Intersex individuals. What is the basis for determining the sex of an individual before the court? What medical or mental health services need to be available for the individual? How will their introduction to a confined environment affect their health and safety as well as those around them?

It clearly is necessary to take these issues into consideration on a case by case basis. I plan on making all decisions in a thorough and informed manner. Doing so will mean consulting various sources, including informed professional members of the LGBT community, to understand best practices.

5) LGBT youth sometimes act out because of harassment at school or in the home due to their gender/sex identity. When ADAs prosecute cases against these members of our community, what will you do to prepare your staff to be sensitive to their issues? Additionally, LGBT youth who spend time in juvenile detention facilities face many dangers. What alternative sentences might you seek in their cases?

LGBT youth who appear before courts bring a host of issues that will need to be considered as part of the handling of a case. I will be fair to any and all parties in cases that come before me. However, under the judicial canons, it would be highly inappropriate for me to discuss potential sentences.

6) What has been the general nature of your practice and particular areas of concentration? Please describe any changes throughout the years?

From 1982-1984, I was engaged in the general practice of law handling landlord and tenant matters, wills and estates, personal injury, employment discrimination, unemployment compensation, and juvenile proceedings. I was also appointed as a Hearing Master in Divorce Proceedings and as an Arbitrator for the Court of Common Pleas Arbitration Center. From 1984-1988, as an Assistant Defender I handled a high volume criminal practice and I was selected as one of the first three members of the Juvenile Special Defense Unit. From 1988-89, I worked for a law firm where I handled construction/commercial litigation and a major white-collar criminal defense case. I was also appointed as a Counsel to Philadelphia Traffic Court. From 1989 to 2005, I practiced environmental law in the government, private and corporate sectors. I presently manage the overall legislative process, budget and operations for three congressional offices.

7) Describe a few of the most significant cases you have litigated. Please give a summary of the substance of the cases, the citations if available, and why you believe they were significant.

A. Commonwealth v. Kenneth Outterbridge

I litigated my first jury trial before the Honorable Marvin R. Halbert, when he was assigned to the Career Criminal Program and I was in private practice. The Assistant District Attorney was Randy Williams. My client, Kenneth Outterbridge, was tried and convicted of robbing a neighborhood bar at point of shotgun on the same block where he had once lived. The case is significant because it was my first jury trial and because the jury foreman and a juror fought during deliberations to such an extent that it was reported in the newspapers. David Racher of the Philadelphia Daily News wrote a rather lengthy article entitled, "The Jury Flails to Reach a Verdict."

Honorable Marvin R. Halbert, Court of Common Pleas (Ret.)
Former Assistant District Attorney, Randy Williams (Ret.) (Cell) 215-519-6005

B. Commonwealth v. Daniel Freedman

In 1987, as an Assistant Public Defender, I litigated a jury trial before the Honorable Joseph T. Murphy with then Assistant District Attorney William Boland. My client was acquitted on all charges of attempting to shoot the complainant, Elliott Eberhardt, at close range and nearly striking the complainant's wheelchair-bound grandmother while she was inside the house on an oxygen tank. This case is significant because the Commonwealth presented a formidable amount of evidence, which included: a

ballistics expert; a fire marshal (to testify that had the tank been struck it may have exploded); both complainants including the grandmother who was wheeled into the courtroom for effect and Elliott Eberhardt who testified at trial that he knew my client from the neighborhood; two other non-identification witnesses and two arresting officers who testified that my client attempted to flee at the time of his arrest (thus entitling the Commonwealth to have a flight charge included in Judge Murphy's jury instructions). I was able to demonstrate through two defense witnesses (an investigator who took photographs of the crime scene and an impartial eyewitness to the arrest—who rebutted the testimony of the arresting officers that my client had attempted to flee at the time of his arrest) that this was a clear case of mistaken identity.

Honorable Joseph T. Murphy, Court of Common Pleas (Ret.)
Former Assistant District Attorney, William P. Boland (215) 592-5290
Deputy City Solicitor,
Law Department, Claims Division
1101 Market Street, 9th Flr.
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Then-Assistant Public Defender, Carol Carson (215-843-6354), now in private practice, attended the cross-examination of the complainants and then-Assistant Public Defender, Huey Cotton (1-800-563-1027), now the former managing partner of Cozen O'Connor's Los Angeles office, attended the closing arguments.

C. G&V Construction Company v. City of Philadelphia

In 1988, as an associate with Blackburn, Michelman, Tyndall & Sonnenfeld (later Blackburn & Michelman, PC) which was a seven-lawyer firm at the time, I was assigned to assist partner Harry R. Blackburn with the arbitration of a multi-million dollar construction case against the City of Philadelphia for the Move fire construction. The case was originally brought in the United States District Court for Eastern District of Pennsylvania, however, the City opted to exercise its right to arbitrate under the contract's arbitration clause. The City of Philadelphia was represented by Kenneth Cushman of Pepper, Hamilton, and Sheets, The Fidelity & Deposit Company of Maryland, which provided the bond for G & V to complete the Osage project was represented by Gordon Elkins and Samuel I. Arena of Stradley, Ronon, Stevens & Young. We were able to obtain an award of \$3.4 million for our client. This case is significant because the size of the award was especially large for an arbitration case at that time and this case allowed me to handle major aspects of a high profile, complex case.

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Samuel J. Arena, Jr., Esquire
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Philadelphia, PA 19103

D. In Re National Gypsum Co., No. 390-37213-SAF-1 19 N.D. Texas (6/24/92)

This is one of only a few natural resource damage claims ever brought by the Department of Interior. Additionally, it is one of only a few environmental bankruptcy cases that involved the estimation of claims for sites that had not yet been remediated (cleaned up). This was a national case and I was the chief counsel for USEPA, Region III, I reviewed documents, identified potential agency witnesses and experts. I assisted with the depositions of experts on both sides and the Department of Justice handled the proceedings which took place in Texas.

Former DOJ Attorney, Philip E. Karmel, Esquire (212) 541-2311
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Washington, DC 20001

E. United States of America v. Union Corp., et. al, 259 F. Supp. 2d 356 (E.D. PA 2003)

I was the sole USEPA counsel for this case when Chief Judge James T. Giles assigned it to Federal Magistrate Carol S Wells for a settlement conference and I was co-counsel with USEPA attorney Betsy Lukens during extensive pre-trial discovery and depositions and during the creation of a document repository. I worked closely with several attorneys who were assigned to this case by the Department of Justice (DOJ) in Washington, DC and the United States Attorney's Office for the Eastern District of Pennsylvania. This case is significant because it is one of the few Superfund cases to go to trial and because the corporate relationship and liability issues were established due primarily to the hard work that was performed during the discovery phase. The fact that the case had originally been filed in 1980, placed in suspense in 1983 (pending attempted remediation of the site) and restored to the court's active trial docket in 1998 complicated matters because it required, amongst other things, searching for and reviewing thousands of old documents. (I did not take the case to trial but requested re-assignment at the close of discovery due to the serious and sudden illness of my mother).

Honorable James T. Giles, Chief Judge (Ret.)
United States District Court (215) 597-0692
Eastern District of Pennsylvania
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Honorable Carol S. Wells (215) 597-7833
United States Magistrate Judge
Eastern District of Pennsylvania
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8) State briefly why you are seeking the Democratic nomination to be a judge in Philadelphia, and what qualities you believe you possess that would serve you especially well if you were elected to the Court.

There are three major reasons why I consider myself to be qualified to be a judge. I possess demonstrated trial experience, legal ability and the temperament to be a good judge. I first became interested in becoming a Judge in 1983 after managing the campaign of the Hon. Lawrence Prattis for the Superior Court. He became a role model and a mentor to me and I became determined to work hard and prepare myself as best I could for the bench. In the late 1980's I became an Investigator for the Judicial Selection Committee and evaluated lawyers who desired to become judges. In 1994, I was rated qualified by the Philadelphia Bar Association and the Ryan Commission. At that time, the Ryan Commission was used by then Governor Casey, in addition to the Philadelphia Bar Association's rating, to recommend qualified candidates for appointment to the bench in the First Judicial District. I submitted myself in 2004 and I was rated qualified by the Philadelphia Bar Association.

9) What are the most pressing needs of reform in our judicial system in your opinion?

Eliminating the remaining bias and disparities caused by race, gender, sexuality and class in the judicial system.

10) For what organizations have you done pro-bono work?

I have done pro bono work for the Share Food Program, Alpha Phi Alpha Fraternity and the 44th Ward of the Philadelphia Democratic Party. Additionally, I have practiced a considerable amount of public interest law.

11) Do you support a woman's right to choose?

Yes. I am pro-choice.

12) Have you ever been sanctioned for any alleged breach of ethics or professional conduct by any court, administrative agency, bar association, disciplinary committee, judicial conduct committee, or other professional group? If so, please explain the nature of the sanction.

No.

13) Have you been recommended by the Philadelphia Bar Association?

I was interviewed by the Philadelphia Bar Association on Monday, March 23rd. I am awaiting my current rating which is presently scheduled for early April.

In 1994, I was rated qualified by the Philadelphia Bar Association and the Ryan Commission. Additionally, I was once again rated qualified in 2004 by the Philadelphia Bar Association. (Philadelphia Bar Association ratings are only good for a three year period.)

Please return by Friday April 3rd via e-mail to matt@libertycity.org

Or via mail to:

Liberty City Lesbian and Gay Democratic Club

C/o Matthew Woodcock

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