

LIBERTY CITY LESBIAN, GAY, BISEXUAL AND TRANSGENDER DEMOCRATIC CLUB

2009 JUDICIAL PRIMAR V ELECTION QUESTIONNAIRE

Name Kenneth J. Powell, Jr. Office Sought Judge Municipal Court Date March 31, 2009

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

My contact with LGBT community has been an awareness of them and their goals through family members and men and women with whom I interact in the arts in and around Philadelphia. Professionally I was a probation officer who supervised a case load of transgender clients in an effort to ensure they abandoned criminal behavior and find a suitable place to work and live in the 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?

Throughout my professional and personal career I have represented sexual, racial, and ethnic minorities in both criminal and civil matters. I continue to do pro bono work with these clients to this day.

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

- a. Marriage? No, not at this time, but I believe the time is coming when the voters will be ready to adopt this. The community should lead with a push toward another type of union which will give the general public a view of how marriage can work well.
- b. Civil Unions? Yes.
- c. Domestic Partnership? Yes.
- d. Second-parent adoption? Yes.
- e. Protection from workplace discrimination? Yes.
- f. Protection from housing discrimination? Yes.
- g. Protection from acts of violence based on their sexual orientation or gender

identity? Yes.

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

Transgender persons will probably not qualify as a suspect class under the law. However, I do not rule out this coming within the next ten (10) years. At this point, I believe their civil rights should be protected by local ordinances and community activism.

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

A Judge should always be aware that transgender persons appearing before him/her may need to be accommodated in a special fashion. I possess the sensitivity to understand same and to direct public accommodation when necessary during trial of a case and thereafter in the criminal justice system, if necessary.

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?

I believe I will have an opportunity to choose my staff when I take the bench. With that in mind, I will only choose people who are aware, sensitive, broadminded, and accepting of all. Transgender defendants should not be the object of scorn or ridicule and, if necessary, should be tried in a setting void of derision and ridicule. I will assure you that this will be done in my Courtroom. Should an LGBT youth be sentenced, I would consider a number of alternative sentences including house arrest and a mentoring system which interfaces with the LGBT community at large. Judges have very little control over the prison system itself, but an explicit probation, parole, and incarceration sentence will direct prison authorities and others within the criminal justice system on methods for responsible handling of youth at risk.

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

I have been a prosecutor, a criminal defense attorney, a plaintiff's attorney, and an insurance defense attorney. Presently, I am doing mostly civil defense work, but I handle all of my firm's criminal matters and I continue to do pro bono work. I am experienced in every phase of the law and have tried thousands of cases over my career. I am ready, qualified, and able to be a Judge.

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.

The following is a description of significant cases I have handled which was presented to the Philadelphia Bar Association for review.

Gerald Graff vs. Georgia-Pacific, vs. Georgia-Pacific, William Borich vs. Georgia-Pacific. In these cases I represented Georgia-Pacific. The cases were grouped together and I tried the three of them in a single trial. Each Plaintiff claimed to have asbestosis. The trial occurred in 2007 and was tried in the Philadelphia Court of Common Pleas before the Honorable Lisa A. Rau. My opponent in this matter was Robert J. O'Shea, Jr. (whereabouts unknown). Each of these cases resulted in a defense verdict.

Mrs. Abbatiello vs. Georgia-Pacific. I represented Georgia-Pacific and Pecora in this matter in 2006. This was an asbestos case in which the Plaintiff claimed she had developed lung cancer as a result of being around her father's clothing when he worked in the asbestos industry. The contention of the defense was that Mrs. Abbatiello contracted her cancer from smoking. The case resulted in a defense verdict. The case was tried in the Philadelphia Court of Common Pleas before the Honorable Alfred DiBona. Co-counsel in the matter was Thomas J. Johanson, 1800 John F. Kennedy, Boulevard, Phila., Pa. 19103, 215-564-6688. My opponent was Edward Nass, 1608 Walnut Street, Philadelphia, Pa., 215-546-8200.

Commonwealth vs. Arthur Lester, reported case, Superior Court. This was a matter in which I litigated the post-verdict motions before the Honorable Eugene Clark in 1993. It was my contention that the statement given by the Defendant, Arthur Lester, was coerced by homicide detectives. Judge Clark denied my post-verdict motions despite the fact that the evidence favorable to the Defendant was overwhelming and shocking. In return for allowing Arthur Lester to have sexual liaisons at the homicide unit of the Round House, Mr. Lester gave a statement placing himself on the scene of a murder. He did so in order to testify against the actual murderer. Mr. Lester refused to testify against the murderer and the Commonwealth decided to use his statement placing him on the scene against him in a case. He was convicted of first degree murder. I was assigned the post-verdict motions by the Honorable Eugene Maier. Judge Maier said everyone had refused to take the case because the allegations of the Defendant were so outrageous. I took the case with some misgivings, but after interviewing all the women who had sexual liaisons with Arthur Lester, each of whom was a middle-class housewife, I litigated the case in earnest. I appealed Judge Clark's Decision and the Superior Court reversed it. Because the Commonwealth had no other evidence against Arthur Lester, save his statement, all homicide charges were dropped and he was released from prison. (Opponent unknown).

Commonwealth vs. Sidney Boehm, 1994. This was a drunk driving homicide by vehicle in which the Defendant lost half his blood. I presented an expert who said his blood alcohol level was twice its actual amount because half his blood had been lost. This case was before the Honorable Juanita Kidd Stout and a jury, my opponent was Hugh Colihan, assistant district attorney (retired). The case

resulted in a not guilty verdict to all counts except for a misdemeanor.

Commonwealth vs. James Johnson (1994). This case was tried as a non-jury matter before the Honorable Carolyn Temin. The case involved a stabbing and murder of a Temple University dental student. The case garnered substantial publicity. The courtroom was packed throughout the trial with dental students and friends of the deceased. Defendant was found not-guilty of all felonies and guilty of a misdemeanor. My opponent in this matter was Judith Rubino, assistant district attorney (retired).

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.

I have done well in my legal career and well for my clients during the thirty (30) years of my practice. I now believe it is time to give back to the citizenry of Pennsylvania and do good for them. I have spent my entire life in the Courtroom and am among the most qualified attorneys who has ever sought the position of Municipal Court Judge. I have an even demeanor, a broad-based knowledge of the law, and an excellent command of the rules of evidence. I am also aware of various social service delivery organizations within the City of Philadelphia and I have a thorough knowledge of the Department of Probation and Parole, and the Philadelphia Prisons, both of which I worked for during my career. I am fair and confident in my ability to understand the nuances of individual cases and rule appropriately.

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

We need good, smart Judges who are sensitive to the needs of the entire citizenry of Philadelphia and who are willing to make bold decisions based on their knowledge and sensibilities.

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

I have done pro bono work in most areas of the law. I found no need to do it through organizations in that I have always had a steady stream of pro bono work from my contacts in the City of Philadelphia, various organizations to which I belong, and the community in which I live.

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

I believe that *Roe v. Wade* has secured a woman's right to choose. I believe that because it is strong legal precedent, it cannot be overturned or tampered with by a Judge in a Court at any level.

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?

No, but my application for recommendation is before them and I expect to be recommended.