



Judicial Campaign Watch

Wisconsin
Judicial Campaign
Integrity Committee

P.O. Box 7158

Madison, WI 53707-7158

(608) 250-6004

WJCIC: New WMC TV Ad Deceives Public

For more information contact:

Thomas Solberg, State Bar of Wisconsin
(800) 444-9404, ext. 6025
tsolberg@wisbar.org

Chair

Thomas J. Basting, Sr.

Members

Timothy F. Cullen

Dennis L. Dresang

Anthony S. Earl

Joseph P. Heim

William M. Kraus

Neal Nettessheim

Carol T. Toussaint

SUMMARY: The Wisconsin Judicial Campaign Integrity Committee (WJCIC) finds that a new ad produced by Wisconsin Manufacturers and Commerce is a deceptive attack upon Wisconsin's tradition of fair and impartial courts. The ad makes deceptive statements regarding Constitutional principles and adds nothing to the public understanding of the issues in this campaign.

March 21, 2008 -- The WJCIC believes a new negative attack television ad produced by the "Wisconsin Manufacturers and Commerce Issues Mobilization Council" is a deceptive attack upon Wisconsin's tradition of fair and impartial courts. This group is yet another so-called issue advocacy group not associated with any candidate or campaign and not regulated by campaign finance laws. This ad was released on Wednesday, March 19, 2008.

We reiterate our earlier criticism of a similar ad regarding Justice Butler's concurring and dissenting opinion in *State v. Mark Jensen* put out by the Coalition for America's Families. In this case, the WMC ad in question asserts as fact that Justice Butler:

“. . . almost jeopardized the prosecution of a murderer because he saw a technicality. When prosecutors needed to show critical evidence, Butler dissented, going against six other justices.”

This statement is deceptive. Justice Butler did issue a separate opinion that concurred in part and dissented in part. However, Justice Butler joined the entire court in ruling that the issue of whether the item in question should be admitted into evidence should be remanded to the circuit court. Justice Butler disagreed in his dissent with the majority as to what legal test the circuit court should apply in making this determination. A review of his dissent shows it offers no basis for implying, as this ad does, that Justice Butler would not have allowed the item to be admitted at trial. The entire Supreme Court – including Justice Butler -- agreed that was a decision for the circuit court to make.

Further, we note that the evidentiary question at issue in this case implicated the Constitutional right guaranteed to every American to confront one's accusers; we find it deceptive that WMC would refer to any Constitutional question as a mere "technicality." In fact, a similar issue is currently pending before the United States Supreme Court.

We also note the ad gives the public a grossly distorted view of the role of the Wisconsin Supreme Court in our criminal justice system. We agree with Marquette University Law Professor and former Supreme Court Justice Janine Geske, who has said of ads like this one: "I think these outside groups are giving the public the impression that justices decide whether to side with the police or criminals. That's not what the court is looking at at all."

(more)

A project of the State Bar of Wisconsin
www.WiFairCourts.com

Finally, we also find the ad disturbing in one other respect. The ad instructs viewers to telephone Justice Butler and says, **“Tell him to stand up for victims -- not technicalities.”**

Our criminal justice system is built upon the notion of individualized justice administered in a fair and impartial -- not an arbitrary or capricious -- manner. We find the ad’s instruction to the public to lobby Supreme Court justices as if they were mere politicians to be antithetical to our Constitutional heritage and to Wisconsin’s tradition of fair and impartial courts.

#