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Bice: Appeals Court candidate rips opponent for landing Tony Evers appointment she also sought

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If there's one thing that state Appeals Court candidate **Shelley Grogan** wants the conservative voters in Milwaukee's suburbs to know about her opponent, it is this:



Appeals Court Judge **Jeffrey Davis** was appointed by Gov. **Tony Evers**, a Democrat.

Grogan's campaign makes this point on its [campaign Facebook page](#), in a [news release](#) announcing her candidacy and in a recent fundraising appeal from Grogan's daughter.

"This important judicial election is coming up this spring — on April 6th — so there is not much time to raise the funds my mom will need to defeat the sitting judge who is an Evers-appointed liberal," wrote **Keely Toboyek** on Jan. 15.

But there's also something that Grogan is hoping the voters never find out:

Grogan put in an application in May 2019 to Evers' office to try to get the same judgeship that eventually went to Davis, her opponent. The two don't have a primary; they square off in the April general election for a seat on the [District II Court of Appeals](#).

That's right — Grogan was among the 13 candidates, along with Davis, vying for the Democratic governor's approval to replace **Brian Hagedorn**, who had been elected to the state Supreme Court.

But no one knew this about Grogan, a judicial assistant to Supreme Court Justice **Rebecca Bradley** and a Muskego municipal judge, because she checked a box on her application asking that it be kept confidential.

(Davis, a former partner at **Quarles & Brady** law firm, did the same, but the governor's office provided a copy of his application under the open records law for judicial finalists and appointees.)

Just how desperate was Grogan to keep all this secret?

On Dec. 21, when contacted by **Journal Sentinel** about the issue, she said she needed to check a couple of things before commenting. She never called back. She also didn't respond to numerous other calls or an email.

In that email, the newspaper said it had confirmed Grogan applied for the Hagedorn vacancy and asked for a copy of her application. The governor's office declined to provide one, per her instructions.

Still, nothing. Her campaign even [put out a statement](#) taking a swipe at Evers and Davis while it dodged questions about her application. "Judge Grogan's opponent was handpicked by Democrat Governor Tony Evers," it said.

Finally, Grogan's campaign conceded the fact this week, noting that she had applied for vacancies under both Evers and ex-Gov. **Scott Walker**, a Republican — meaning she was passed over by leaders of both parties.

That elicited a rebuke from Davis' campaign. "Anyone can apply, but not all are prepared to serve," said **Vi Hammelman**, Davis' campaign manager.

Based on her work with other judicial appointees, Hammelman added, "I have to believe that any governor would have done as Gov. Evers did — chosen to appoint a highly accomplished appellate law veteran with 32 years of courtroom experience versus a career law clerk."

Grogan's campaign manager, **Alex Walker**, son of the former governor, then put his spin on the situation.

"It is unfortunate that liberal Gov. Tony Evers decided to hand out a political favor to a Milwaukee insurance attorney, rather than appoint a qualified judge and public servant that actually lives in the district," Walker said in an email.

That last part is a reference to the fact, as reported by the Journal Sentinel, that Davis had to move when appointed to the District II appellate bench, which covers the Milwaukee suburbs but not Milwaukee County. Judges must be eligible to vote in the district in which they preside.

So, to meet the residency requirement, Davis and his family moved 13 miles from Fox Point in Milwaukee County to Mequon in Ozaukee County.

It is clear from both Davis and Grogan's 2019 applications that they were aware that they were seeking an appointment from a Democratic governor.

Among the judges she said she admired, Grogan named two now-deceased liberal icons, state Supreme Court Justice **Shirley Abrahamson** and U.S. Supreme **Ruth Bader Ginsburg**, along with several conservatives. (Grogan did note her membership in the conservative **Federalist Society** since 2018.)

Davis said he endorsed a couple of liberals in past contests — Supreme Court Justice **Rebecca Dallet** and Appeals Court Judge **Lisa Neubauer**. Records show he has given a total of \$950 to Dallet, Abrahamson and Democratic Gov. **Jim Doyle**.

Davis also cited the U.S. Supreme Court's Citizens United decision in 2010, a frequent target of liberals, as the case having the worst impact on democracy.

Now that they are on the ballot, the two candidates can point to their current conservative support on the high court.

Davis has the backing of two Supreme Court justices, **Patience Roggensack** and **Annette Ziegler**, and two former justices, **David Prosser** and **Jon Wilcox**.

Grogan has been endorsed by her boss, Bradley, and former Supreme Court Justice **Dan Kelly**.

Neither candidate cites the backing of any sitting or retired liberal justices.

Interestingly, Kelly, who lost last year, said in a recent interview that he thought seriously of running against Davis for his appellate court seat, even though many would see that as a demotion from the high court. Kelly instead took a job with a conservative nonprofit, the **Institute for Reforming Government**.

Kelly said he now plans to run for Supreme Court again in 2023, assuming Roggensack retires. The chief justice would be 83 at the end of her current term.

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