

EXCLUSIVE: Attorneys urge commission to reconsider Judge Lee's rejection

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By Rick Daysog

HONOLULU (HawaiiNewsNow) - Several prominent attorneys are urging the state Judicial Selection Commission to reconsider its decision not to retain Circuit Judge Randal Lee.

"I can represent to you and your commission members that there is widespread concern among members of the bar and others about the manner in which Judge Lee's petition for retention has been handled," attorney Eric Seitz wrote in a letter to the commission on Friday.

"I urge in this instance that Judge Lee's application be considered in a manner that will establish public confidence in both the process and the result."

Attorney General Doug Chin echoed that sentiment.

"If that mechanism is possible, I would urge the people who are in control of that to make that happen," he said.

"Judge Randal Lee is a pillar in the community, someone who has handled some serious cases. It's very unfortunate that he won't be on the bench."

Lee, a former prosecutor, has been a Circuit Court judge for 10 years, most recently presiding over criminal cases.

Last week, the nine-person selection panel voted to reject Lee for a second 10-year term. The move came after a deputy prosecutor filed a complaint with the Commission on Judicial Conduct.

Critics said Lee had a bad track record when it comes to civil rights. They also noted that five of his decision were reversed due to prosecutorial misconduct that he allowed to go unchecked.

Daphne Barbee-Wooten said Lee ruled against one of her clients in a discrimination case and ordered him to pay \$150,000 in attorney fees to his former employer without a hearing or trial.

The man had sued his company after co-workers harassed him because of his French ancestry. The case was later overturned by the Supreme Court, she said.

"As far as civil rights, he never studied the law," said Barbee-Wooten.

"I frankly think the Judicial Selection Commission did its job."

But supporters said Lee took on many of the toughest cases. They also point to recent ratings issued by the Hawaii State Bar where attorneys gave him good ratings for his judicial management skills and his legal ability. Jurors, meanwhile, gave him very high ratings for his overall performance.

"The great majority of opinions I hear is that there's been a great injustice done to Judge Lee," said attorney William McCorrison.

Lee is the third Circuit judge rejected by the commission in the past year. Patrick Border was not renewed for a second term, after several attorneys accused him of erratic behavior on the bench.

Kona Judge Elizabeth Strance withdrew her retention application after the commission voted not to approve her for a second term.

All three were appointed by Republican Gov. Linda Lingle. Three other Lingle nominees -- Intermediate Court of Appeals Judge Alexa Fujise, Oahu Circuit Judge Rhonda Nishimura and Maui Circuit Judge Richard Bissen -- were retained in the past year.

"So, if one of the reasons to be retained is whether or not the appointing authority was a Republican or a Democrat, that would be unconscionable and a shameful abuse of the selection commission's power and authority," said Peter Carlisle, former Honolulu Mayor and Prosecutor.

"The failure of Randy Lee to be retained as a Circuit Judge is a black eye for the Judicial Selection Commission."

The nine-member commission includes attorneys and lay people appointed by the governor, the Speaker of the state House, the state Senate President, the Hawaii Bar Association and the state Supreme Court's Chief Justice.

Current members include attorneys Patricia Park, James Bickerton, Walter Kirimitsu and James Kawachika, educator Doris Ching, businessman Albert Kanno, Servco executive Phyllis Horner, former state lawmaker Jackie Young and retired newspaper executive Mike Middlesworth.

A call to the commission's office was not returned.

While the commission tries to make its proceedings as transparent as possible when picking new judges, Seitz believes the process it uses to retain sitting judges is too secretive.

"It's a closed decision making process. There's no appeal and there's no public aspect to it all," he said.