

The Sun

**Circuit Court race rages toward end
Divisive campaign has ramifications beyond bench
Political cross-currents
Diversity, crime, appointment process among issues raised
CAMPAIGN 1996**

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The battle for Howard County's Circuit Court bench has been so bitter and contentious that the four candidates have sometimes gotten lost in the fray.

But two of them, not their handlers, soon will sit on the Circuit Court bench hearing cases, sentencing criminals, maneuvering through tricky litigation and potentially shaping the character of Howard's judiciary for 15 years.

Tuesday's election pits sitting Judges Diane O. Leasure and Donna Hill Staton against challengers Lenore R. Gelfman, a judge on the lower District Court, and Jonathan Scott Smith, a local attorney.

The election will climax a yearlong battle that began last fall when Gov. Parris N. Glendening -- noting a need for greater diversity on an all-white, all-male Circuit Court -- appointed Leasure and Hill Staton as the court's first female judges. Hill Staton is also the court's first black judge.

Gelfman and Smith soon challenged the appointees, charging that Glendening had put achieving diversity above qualifications.

The raucous campaign that has followed gained passion and complexity from a variety of political cross-currents.

After the primary, the candidates vowed to run gentler campaigns this fall, but the hostilities have resurfaced in recent weeks, in part because the race is about more than the Circuit Court bench.

It has been about the judicial appointment process that left some in the local legal community feeling snubbed, about the drive for diversity on the bench and the backlash against that, and about crime and the fear of crime. And it has been about efforts to capitalize on the recently sagging popularity of the governor.

In the end, it is believed to have been fiercer and more expensive -- \$360,000 had been raised at last count -- than any other judicial race in Maryland history.

Although the two members of each ticket in the campaign have shared resources, campaign themes and common routes into the race, voters will choose from four candidates vying for two seats.

Each voter gets two votes, which can be cast for any two candidates. The candidates who finish first and second will become the circuit judges.

Profiles of the four candidates -- written by Caitlin Francke, Shanon D. Murray and Craig Timberg -- follow in alphabetical order:

Lenore R. Gelfman

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Lenore R. Gelfman hasn't been campaigning as visibly as her running mate, Jonathan Scott Smith. She may not have to -- she's the favorite.

As the overall top vote-getter in the spring primary, she is widely expected to be one of the two winners Tuesday. The reason is name recognition: Her husband is television reporter Dick Gelfman, and she has been a district judge for seven years.

She attributes her recognition to the latter. "Reputation is paramount," Judge Gelfman says. "People recognize Dick, but they recognize me for me. It's a combination, really."

This is the third time Gelfman has sought a circuit judgeship. She applied in 1989 and 1995 and was recommended to the governor both times by a local nominating committee. She also applied in 1990 but was not nominated.

Local political observers say the main reason this race is so hotly contested is Gelfman's bitterness at being passed over by Glendening last year.

She plays down that assumption. "This is not a new phenomenon. A constitution mandates an election," she says. "I'm running because I believe the voters should make the decision."

Gelfman, 48 and the mother of three daughters, has lived in Howard for 23 years. Before being appointed to the District Court in 1989, she was a Baltimore prosecutor for two years and was in a Columbia law practice with her husband for 14 years.

Local attorneys say she has been considerate and fair on the bench. She teaches fellow judges at the Maryland Judicial Institute in Annapolis.

"I had a case once when my client lost, and as he was walking out of the courtroom, he said, 'You know, she's probably right,'" recalls Thomas E. Lloyd, an Ellicott City attorney and longtime Gelfman friend. "I had others who have lost, and they all agreed they had a fair trial. She's been tested, and she has measured up."

During the campaign, she and Smith have presented themselves as tough on crime. But her opponents call her a hypocrite, pointing to several cases in which they say she was too lenient.

In one, Gelfman gave an 18-month sentence to a repeat drunken driver who killed a man in a collision. The sentence was aimed at getting the offender treatment, she says.

When her record is called into question, Gelfman responds, "The prosecutor wants the toughest, most restrictive sentence. The defense attorney wants the lightest sentence. I, as the judge, want the most effective sentence."

She also has drawn fire from some in the local legal community for not distancing herself from Smith because of his aggressive campaigning.

"She has full responsibility on how the campaign is conducted. She can't hide behind the black robe," says Fred Silverstein, former president of the Howard County Bar Association. "They can't just say it's Smith's campaign when they chose to run together."

Gelfman says it would not be appropriate for her to try to stifle Smith. "Jonathan is an adult," she says. "He has his own viewpoints, and he has the right to say what he wants."

What riles her most are her opponents' disparaging remarks about the District Court, which they have labeled "traffic court."

Although serious crimes such as felonies aren't dealt with at the District Court level, Gelfman says, she has tried 19,000 traffic cases that could have been punishable with jail time and at least 10,000 other cases that involved criminal charges such as assault.

"It's a lot of responsibility being a judge," she says. "What a judge does affects so many people on both sides of the courtroom. It's a serious place."

Brina Krupp, a county middle school teacher and a friend of Gelfman for two decades, says the candidate takes her job seriously.

"Not long after she was appointed to the District Court, I asked her about a legal issue and she told me she couldn't comment on that because she was a judge," Krupp said. "She put her ethics first."

Gelfman, whose parents and brother are lawyers, says she has wanted to be a judge since she was a girl. She was a secretary

and a teacher before attending the University of Baltimore Law School.

Even if she does not succeed on Election Day, Gelfman will retain her seat on the District Court. And she will still have what's most important to her, she says: "If it doesn't come to pass, I have to believe it's for the best. I'll still have a loving husband and wonderful, healthy kids."

Diane O. Leasure

A courtroom may be a place where opposing parties face off, but Circuit Judge Diane O. Leasure says it shouldn't be a battleground.

"Litigation by its nature is adversarial," Leasure says. "But it does not have to reduce itself to personal attack. There's a real premium I place on civility. There is a difference between advocacy and raw aggression."

That approach to running her courtroom has earned Leasure, 44, a reputation among local attorneys as a friendly but fair judge who listens to everyone.

Her courtroom temperament is the cornerstone of her campaign. Even some supporters of her opponents praise her skills.

Timothy Wolfe, an Ellicott City defense attorney, says he has turned his support from Smith to Leasure because the judge "turned my head and persuaded me that she is a great judge and has to be retained."

Leasure's voice almost always remains cheery, regardless of what she is discussing. She exudes self-confidence, which she attributes to a strong work ethic instilled by her parents. But it also may have come from her circuitous path to the bench.

The 16-year Howard resident has been an assistant professor and a weekly newspaper columnist -- and flirted with a career in fashion design. At one time, she made all her clothes.

She has a master's degree in human behavior and development and became interested in law after running workshops in family issues, divorce and stress management. That experience in dispute resolution, she says, has helped her in the courtroom.

She graduated from Rutgers University Law School in 1982 and joined the Fosset and Brugger law firm in Prince George's County, where she became the chief litigator and president of the county bar.

A 1993 case has brought her criticism from environmentalists who paint her as pro-development.

Leasure successfully represented Banyan Developers against a lawsuit by a citizens' group trying to block the development of Chapman's Landing, a controversial project along the Charles County shoreline.

The citizens' group sued over the Charles County commissioners' approval of water and sewer changes that could aid the project. The case was dismissed after Leasure successfully argued that the suit was brought too early.

Leasure's client, Banyan, supported Glendening in his winning 1994 campaign, says Nancy Davis, lobbyist for the Sierra Club. Davis says Leasure's appointment by Glendening was seen by some environmentalists as a payback.

Ties to the governor, who was county executive in Prince George's while Leasure practiced there, have dogged Leasure in another way.

Her opponents and a government watchdog group have questioned her role in planning a fund-raiser for Glendening held the day before her interview with him for the Circuit Court judgeship.

Leasure characterizes her roles in the Banyan case and the fund-raiser as minimal. For Chapman's Landing, she says, she was merely "advocating for my clients."

She and Glendening know each other, she says, but are not close.

"If what they are alleging is so," Leasure says, "he would have appointed me long before October" 1995. The judicial vacancies in Howard opened in the spring of that year.

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David Carney, a Columbia attorney who is a member of the Judicial Nominating Commission and who had been seeking qualified women to diversify the Howard bench, says he had considered Leasure for a judgeship three years earlier.

"We needed someone who was just going to be outstanding," Carney says. "We could not afford mediocrity. She's been a superstar."

When Leasure was appointed, opponents almost immediately attacked her lack of experience in criminal cases.

Leasure scoffs at suggestions that she and running mate Donna Hill Staton are soft on crime, pointing to a 12-year sentence she gave recently to a repeat offender who robbed a 13-year-old Columbia boy at knifepoint. "I just can't imagine any greater fear than what that child faced," she says.

The contentious judicial campaign has tired her, she says.

When not in court or campaigning, she is often at baseball fields with her 11-year-old son and her husband, Ralph, who is in medical sales. "I can't wait to get my life back," Leasure says.

Jonathan Scott Smith

Get Jonathan Scott Smith talking about the courtroom and he remembers legal battles past. He is as sharp, well-prepared and intense as any trial attorney in Howard County, some say.

In the campaign, those qualities have made him the most aggressive campaigner among the four candidates. He has visited more than 4,000 homes to introduce himself and distribute campaign literature.

He has appealed to suburbanites' deep fear of crime, promising to make Howard County -- one of Maryland's safest places -- safer through tough sentences for the repeat violent offenders he calls "predators."

Smith's style has convinced some in Howard's tight-knit legal community that the brash intensity that makes him a top-notch litigator would keep him from being a fair, balanced and sensitive judge.

"People who are very good and aggressive trial lawyers are not necessarily good judges because they have trouble channeling that," says Michael Montemarano, an Ellicott City criminal defense lawyer who supports Leasure and Hill Staton. "Some of the things he's said about criminals have to raise real questions about his objectivity."

Smith -- a prosecutor with the Baltimore County state's attorney's office from 1980 to 1984 and a criminal defense attorney and civil litigator since -- disputes that, saying the criticism comes from lawyers who fear his reputation for high standards and thoroughness.

"The lawyers are scared to death that I'm going to apply those standards to them and they won't measure up. Lawyers want friendly judges who let them get by," he says. "That's why they like Diane Leasure. She plays nicey nice. She gives everybody what they want."

Del. Robert L. Flanagan, an Ellicott City Republican and top campaign adviser to Smith, said the candidate has the trial background and thoughtfulness to make a good judge.

"In the heat of this campaign I've seen his reflective side," says Flanagan, a lawyer. "And I am confident he will also make an excellent trial judge."

Smith, 40 and married, moved to Howard County as a teen-ager. He finished high school, college and law school in nine years, graduating from the University of Baltimore School of Law just after his 23rd birthday.

Smith has written a book on criminal law and was a member of the county's Judicial Nominating Commission, which recommends judicial candidates to the governor.

Last year, Glendening rejected the commission's recommendations and named a new commission that did not include Smith. When Glendening appointed Leasure and Hill Staton -- in part to diversify the bench -- Smith and Gelfman entered the race.

In the primary campaign, Smith criticized Glendening for what he called putting diversity above experience, and he challenged the

credentials of Leasure and Hill Staton, who were civil -- not criminal -- attorneys.

"They like to huff and puff like they're trial lawyers," Smith says, "but almost all civil cases settle out. I have 17 years doing nothing but trials."

Smith called Leasure and Hill Staton "judges with training wheels." And on primary election night in March, Smith said of his rivals, "They changed from sitting judges to sitting ducks."

In the general election campaign, Smith has changed his focus to the fear of crime, which he promises to fight from the bench with tough sentences, including the death penalty, life imprisonment without parole and mandatory no-parole sentences for repeat violent offenders.

That message may appeal to some Howard voters, but it has left Smith open to attacks that he is a hypocrite.

One television ad by the sitting judges focuses on Smith's career as a defense attorney, saying, "If you think criminals get too much protection, Jonathan Scott Smith isn't the solution. He's part of the problem."

Smith says the problems with the court system come not from defense attorneys, but from judges who aren't tough enough in dealing with repeat violent offenders. And he says he has the experience and temperament to render justice fairly and effectively.

"We can have police that do their job and prosecutors that do their job," he says, "but if the judges let them down, it doesn't matter."

Donna Hill Staton

She wanted to be an attorney at age 11. She made local history twice in her 30s. Now Circuit Judge Donna Hill Staton wants to make that history stick.

Hill Staton, 38, is the first black to sit on the Howard County bench. Two years earlier, she was the first black female partner at Piper and Marbury, a prestigious Baltimore law firm.

The judgeship "is an historic appointment, but that's not why I'm here. I enjoy what I do. I'm qualified to do it," Hill Staton says. "I believe I am the kind of person people want to appear in front of."

The first 11 months on the bench have not been easy for Hill Staton and fellow appointee Leasure, the first two female Circuit Court judges in Howard County. Almost immediately after they were appointed, opponents began charging that Glendening had sacrificed quality for racial and gender diversity.

In her chambers, Hill Staton acknowledges it was a tough start. She was faced with a big backlog of cases and sentiment among others that she did not deserve to be there.

"All I ever want to do with a job is do it well," Hill Staton says. "It's a challenge, and it's a challenge that's pretty huge, considering the opposition."

Among local attorneys, she has earned a reputation as a judge who is well prepared, reserved and thoughtful. Some attorneys say she can be slow to make rulings, which critics call a sign of inexperience.

A decision in one fairly routine child-support case has been pending for seven months. The defense attorney handling the case -- Gregory L. Stephenson of Glen Burnie, who says he has no interest in the judicial race -- and others say a decision should have taken no more than three months.

Asked about the case two weeks ago, Hill Staton blamed the delay on the huge caseload of circuit judges and said she had been working on the case that day but was not ready to rule.

"I'll accept that criticism because it is better than the alternative," Hill Staton says. "I won't make off-the-cuff decisions."

Ever since she was young, Hill Staton has planned goals -- and met them. She moved with her family to Columbia's Wilde Lake village in 1969, when Vietnam and civil rights protests were in full swing. She knew she wanted to become a lawyer.

"I saw myself as someone who could be a good advocate for people," she says. "I expressed some of the concern and outrage that many adults did. My reaction to these events was to cement my future."

Hill Staton earned a law degree from George Washington University. During summer internships and after law school, she clerked for two federal judges and in the process met Kerry Staton, an attorney who became her husband. She has served on the state bar association's board.

Jonathan D. Smith, a Baltimore attorney who worked with Hill Staton in the litigation department at Piper and Marbury and is no relation to candidate Jonathan Scott Smith, says she has a talent for digesting complicated facts and presenting them to the court or a jury.

"She was someone who wouldn't turn down a tough situation and did what needed to be done," Jonathan D. Smith says.

Hill Staton says she believes strongly in giving back to the community.

She has returned to Wilde Lake schools to conduct mock job interviews with students. When Wilde Lake High was criticized in 1994 for low test scores, Hill Staton rallied support, joining with others to place an ad in a local newspaper reading: "Friends of Wilde Lake High School -- Proud of its past. Excited about its future."

"My concern was that students not be discouraged by the criticism," says Hill Staton, who has two young daughters. "What probably gets me going more than anything else is someone suggesting I can't do something. That's what motivates me."

When Hill Staton was sworn in November 1995, Assistant Public Defender Alice Gail Clark told of two black high school students who asked her whether there were any black judges in the county or in the state. "To me these questions actually mean 'Can I be a judge in Howard County in Maryland?'" Clark said.

Hill Staton says she is disturbed when opponents depict her appointment as nothing more than affirmative action. "If someone had told me that in the beginning all I had to do was show up and be black, I wouldn't have wasted so much time getting qualified," she says.

Hill Staton says she is not considering the possibility of losing the election. "God has a plan for me, and this happened," she says. "His plan will be unveiled Nov. 5."

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Caption:
PHOTO 1
PHOTO 2
PHOTO 3
PHOTO 4

Caption: Lenore R. Gelfman has name recognition from her seven years as a District judge and from her husband's visibility on television. Diane O. Leasure has a reputation among local attorneys as a friendly but fair judge who listens to everyone. Donna Hill Staton has suffered through criticism that her appointment sacrificed quality for racial and gender diversity. Jonathan Scott Smith has been the most aggressive campaigner of the four, visiting more than 4,000 homes.

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