

One Wisconsin Now: Dan Kelly, applying the law as his campaign contributors wish it to be

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MADISON, Wis. — In a recent television appearance, Wisconsin Supreme Court candidate Dan Kelly declared that his job is to “interpret the law as it is written.” His record on the court shows he’s instead seen the law as his campaign donors wish it to be. In one controversial 2019 decision, Kelly voted to overturn a court precedent from 2016, taking the side of right-wing donors who gave thousands to his campaign immediately before and after the decision in the case.

“On the campaign trail, Dan Kelly is telling us that he’s just interpreting the law and not taking sides on the state Supreme Court,” said One Wisconsin Now Research Director Joanna Beilman-Dulin. “But when he’s back on the bench in Madison, his actions tell a different story. Dan Kelly is pushing the activist agenda his right-wing backers want.”

The 2019 decision Kelly joined in the case *Koshkee v. Taylor* reversed a 2016 ruling of the state high court that had struck down nearly identical legislation as it applied to the Superintendent of Public Instruction, a statewide elected constitutional officer.

Adding to the unseemliness of Kelly’s judicial activism were the thousands of dollars in campaign contributions he took in the days immediately before and after the decision was released from members of the board of directors of the right-wing legal group that argued the case before him.

In a stinging dissent to the decision of Kelly and his conservative court cohorts, Justice Ann Walsh Bradley wrote, “ ... nothing in our Constitution has changed since

Coyne was decided, what has changed is the membership of the court. This time around, a new majority of this court does an about-face and now concludes that the substance of Act 57 is constitutional. To reach this conclusion, it throws the doctrine of stare decisis out the window.”

Beilman-Dulin noted that the *Koshkee* case was not the only instance of Kelly’s right-wing activism on the court. During his short time on the bench he has also:

- Authored the opinion requiring the City of Madison let people carry hidden weapons on city buses (*Wisconsin Carry, Inc. v. City of Madison*);
- Refused to require a pipeline company with a poor record of safety to carry additional insurance to protect citizens and clean water (*Enbridge Energy Company, Inc. v. Dane County*);
- Allowed a right-wing college professor who harassed a student to get his job back even though his private employer suspended him over the incident and other alleged inappropriate behavior (*John McAdams v. Marquette University*);
- Refused to enforce the state open records law and allowed former right-wing Milwaukee County Sheriff David Clarke to keep immigration detention records secret (*Voces de la Frontera, Inc. v. David A. Clarke, Jr.*);
- Opposed reforming court rules to set standards requiring judges with conflicts of interest to recuse from cases and voting to close court conferences to the public and media