

Protasiewicz campaign: Local bar association members rate Dan Kelly as “not qualified”

Posted on Thursday, Mar 23, 2023

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

MILWAUKEE, Wis. – In a poll of Milwaukee Bar Association members released today, the vast majority of participating attorneys soundly rejected Dan Kelly’s qualifications to join the Wisconsin Supreme Court.

Trust in Kelly’s qualifications has dropped sharply from 2020. When MBA [members were polled](#) ahead of the Wisconsin Supreme Court election that year, 44 percent found him qualified, compared to 42 percent who said he was not.

“We knew Dan Kelly is extreme, and apparently leaders across the legal system, including his colleagues, agree that he’s extremely unqualified for this position,” **said Janet for Justice Spokesperson Sam Roecker.** “Judge Janet Protasiewicz has the trust of those who work with her because she’s fair, impartial, and follows the law.”

Dan Kelly has proven that he will make decisions based on partisanship, instead of the rule of law, and has been [sharply criticized by his colleagues and legal experts](#) for his decision-making on the bench.

Legal scholars Steph Tai and Tahirih Lee said “Kelly’s opinions draw dissents not just because of ideological or political differences, but because of the poorly reasoned and irresponsible nature of his judging.”

They also noted that Kelly “has a history of poor legal reasoning from his previous time on the bench” and that “Kelly’s colleagues on the state Supreme Court pinpoint basic judicial errors, such as misreading simple language in a statute,

ignoring straightforward statutory interpretations in favor of tortured ones, and misapplying judicial precedent.”

For example, in *State v. Branter*, Justice Patience Roggensack filed a separate opinion that was critical of Kelly’s argument, writing that it, “takes a simple issue ...and makes it complicated..”

In another case, Roggensack wrote of Kelly’s opinion, “Structural error is not a ‘legal rabbit’ that a court can pull out of its hat, and thereby avoid a thorough examination of the record and the legal principles that must be reviewed when a parent’s rights are terminated. Yet, that is just what the majority opinion has done today when it creates this new structural error, never before recognized by the United States Supreme Court or by this court.

In response to Kelly’s opinion in *Tetra Tech EC v. Wisconsin Department of Revenue*, Justice Ziegler wrote, “This conclusion is either quite remarkable or quite unremarkable; that is, if the lead opinion is breaking new ground in defining the power of the judiciary, that is remarkable.”

Since losing the 2020 election, Kelly has also explicitly embraced his role as a partisan operative, [receiving \\$120,000](#) from the Republican Party, including for advising them in the plan to submit fake presidential electors.

Tai and Lee conclude that “Kelly is a poor lawyer who lacks any sense of temperament. The Wisconsin Supreme Court, and the people of Wisconsin, deserve better.”