



Illinois Civil Justice League

Candidate: Marvin Gray

Cook County Circuit Court, Riley Vacancy

1. State the qualifications and experiences that make you qualified to serve on the bench in Illinois.

I have practiced law continuously for thirty seven years, since graduation and licensure in 1972. While the period of time, by itself is not telling, I believe that the breadth of experience during that time is revealing: From a beginning as an Assistant Public Defender to a private criminal practice that evolved into civil representation in areas including personal injury, domestic relations, workers compensation, contractual disputes, real estate conflicts (i.e., the Residential Landlord and Tenant Ordinance and the Condominium Property Act) and, more recently, probate (including appointments as Special Administrator). During the period, I have largely been a generalist and have a yeoman-type working knowledge, if not mastery, of many areas of civil law and procedure. I have aptly represented the persons and positions that have presented themselves to me and have broad insights as to the legal system and its various permutations and believe that the experience qualifies me to properly utilize those insights on the bench.

2. One prominent Illinois judicial evaluation survey asks attorneys to evaluate candidates on Integrity, Impartiality, Legal Ability and Temperament. Critique yourself in these four areas as to how they make you qualified to serve on the bench.

Without sounding self-serving, I do not believe that my career has shown anything but the highest standards of integrity, impartiality and temperament. I make it a point to avoid the personal plane, to maintain an even keel and to respect my colleagues, fellow litigants and the judges before whom we all may appear. To do so can often be challenging in the face of competing emotional interests that are not always presented in collegial manners; I believe that I have managed to ameliorate in the heat of battle and to move toward resolution and closure. As to the more objective notion of legal ability, although I am ever the student, I endeavor to bolster my innate sense of the issues of a given matter by performing the appropriate research in advance of presentation and that my knowledge of the law and general legal ability is excellent.

3. Describe the case in which you are most proud of your work as a lawyer.

The elderly client was employed in a building that was partially being rehabilitated. When she walked by the area of construction, she tripped on a metal beam that had been errantly allowed to protrude from the work area into and onto the walkway and suffered severe fractures to her arm. The general contractor and

the various subcontractors all denied knowledge of the existence of the beam and/or blamed each other. After a protracted trial and unsuccessful appeal by the defendants, the client was able to collect her damages within, as I recall, about two to three years after her injury.

Additionally, if I can be heard further: Although I have primarily been a plaintiff's attorney, I am also proud of the fact that all of the jury trials that I conducted in defense of the Chicago Transit Authority resulted in verdicts of "Not Guilty".

4. Name one change you would make in the Illinois court system.

I believe that judges should be given a crash course in the rules that govern civil cases. It is very disconcerting to try to explain to a client that a judge ruled in a certain way because he or she did not know or follow the rules that are clearly written in the statutes.

5. Are there civil litigation reforms that you would like to see enacted to remedy particular problems that you have detected, either as a practicing lawyer or as a sitting judge? Are there reforms that would benefit the civil justice system? What needs to be changed? Should the enactment of any such changes be the province of the legislature, the Supreme Court or by Constitutional amendment?

The civil system is bogged down by numbers, both of cases and litigants. This causes delay which, in turn, discourages attempts at expeditious resolution, thereby increasing delay and caseload. Some cases, by their nature, ought to be handled in a different forum than that presided over by a formal and traditional judge and jury. This was the thinking supporting the mandatory arbitration program but its effective implementation has been undermined by the litigants' right to reject the arbitration award. Such rejected cases leach back into the jury system and clog it.

My present visceral and uncompleted thinking is that the legislature should create an alternative system of dispute resolution pertaining to cases and matters below a certain threshold of (1) complexity, (2) damages in dispute, (3) nature of claim, (4) time duration and, perhaps, (5) numbers of parties involved. The alternative system would be complete unto itself and not connected to the larger and existing system and without appeal thereto. Thoroughly considered and vetted rules pertaining to the time of commencement and expeditious completion of proceedings, procedure, evidence, appellate rights, finality and the like would have to be simultaneously enacted.

6. Do you believe that our judicial system adequately deters and penalizes frivolous litigation? If not, what reforms would you like to see?

The system, as it stands, contains devices to deter and penalize frivolous litigation. But, I believe a problem remains and that it is two-fold. The notion that the legal system can solve all human problems is pervasive and of great popular appeal. Some sort of a public program that seeks to counter or change this thinking may be called for. (Such programs, for example, have discouraged cigarette smoking and encouraged seat belt usage.) Secondarily, cases are maintained that may be frivolous because the system is slow as it "grinds exceedingly fine". Therefore, although devices exist to weed out cases that have no merit, i.e., motions to dismiss, motions for summary judgment, the very bulk of

the caseloads and the somnolence of the system do not invoke these devices as quickly and effectively as they should. The enactment of the alternative dispute resolution system mentioned at paragraph five would be of great assistance.

7. Do you believe the Illinois Constitution precludes legislative establishment of limitations on civil damages? Are there or should there be distinctions among economic, non-economic and punitive damages?

I believe that the right to trial by jury and the right to have that jury determine the damages to be awarded cannot and should not be delimited by the legislature. Every case is different and the results should not be prospectively limited or set by the legislature. But, the proofs leading to the jury's determination should be vigorous, detailed, thorough and complete.

It is my opinion that injury compensation should allow for the recovery of tangible or economic damages, unliquidated or non-economic and punitive damages but the latter two should bear close scrutiny and only in those cases where the facts so warrant and the law supports.