



# ★ TEXAS SUPREME COURT ★ DOLLAR DOCKET

*In Texas, 48% of judges and 79% of lawyers say contributions significantly influence judicial decisions. - Texas Supreme Court poll*

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## Worst Possible System:

# Blindfolded Voters Pick Gagged Judges

Dallas State District Judge Margaret Keliher is flouting Texas' Code of Judicial Conduct, which requires judges to resign from judicial office when they launch a contested run for a non-judicial office.

At first blush, this rule does not appear to require Judge Keliher's resignation because she is running for Dallas County judge. In fact, however, Judge Keliher is hiding her indiscretion behind a misnomer.

Despite the name, the Dallas County judge leads the county's five-member Commissioners Court that calls bond elections and maintains county roads and facilities. Because they do not exercise judicial authority, these "judges" need not have law degrees.

The Code of Judicial Conduct's prohibition against sitting judges running for a non-judicial office is another bizarre facet of an absurd judicial-selection system. Judges are barred from taking overt political positions because doing so undermines the pretense of judicial impartiality.

Why cling to this pretense? Texas judges are politicians. They run partisan campaigns, court constituencies and raise huge sums of special-interest money. As long as Texas voters elect politicians as judges, it is absurd to deprive them of meaningful information about the candidates. Today, the average voter must base his or her judicial picks on little more than the appeal of candidates' names and—in general elections—on party labels.

Although Steve Smith prevailed in this system when he defeated incumbent Texas Supreme Court Justice Xavier Rodriguez for the Republican nomination last month, he is challenging the states' judicial gag rules in federal court. A former Minnesota Supreme Court candidate has a similar case before the U.S. Supreme Court (*Republican Party of Minnesota v. Kelly*).

Even people who disagree with Smith's political positions (opposing: affirmative action, equitable pooling of school revenues; and liberal exceptions to the law that mandates parental notification before minors get abortions) may sympathize with his premise that voters should not pick judges blindly.

While Judge Keliher hides her flouting of the Code of Judicial Conduct behind the fig leaf of a misnamed office, Smith is challenging inherent contradictions in Texas' judicial code and moribund judicial-selection system. Even if his lawsuit fails, Smith still could be elected and become his own best argument for not entrusting judicial selection to a blind vote. •

## March Dollar Docket

Cases heard by the Texas Supreme Court in March and the corresponding contributions to justices from the parties and/or attorneys.

### March 6, 2002

*Midcon Gas v. Pool* \$174,892  
\$20,473

*Anadarko Petroleum v. Thompson* \$1,150  
\$950

*City of Bellmead v. Torres* \$14,050  
\$0

### March 20, 2002

*Argonaut Ins. v. Baker* \$0  
\$38,186

*Hilco Electric Coop. v. Midlothian Butane Gas* \$56,350  
\$5,800

*Wal-Mart Stores v. Johnson* \$3,250  
\$2,250

### March 27, 2002

*Texas Commerce Bank v. Grizzle* \$407,482  
\$170,975

*Excel Corp. v. Apodaca* \$75,000  
\$0

*CVN Group v. Delgado* \$1,325  
\$0

**Grand Total for March 2002: \$972,133**