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Money, Networks Mean Few Fla. Judges Face Reelection Foes

By **Jack Karp**

Law360 (August 27, 2024, 10:38 AM EDT) -- All 27 of the sitting judges seeking reelection in Broward County, Florida, won during the state's recent primary election — but that might come as a surprise to voters, since 24 of them didn't appear on the ballot.

That's because only three of those incumbents drew challengers and showed up on the ballot for the vote held on Aug. 20. Those numbers almost make Broward County a hotbed of electoral competition for judges, though, given that no one challenged any of the incumbents in several other Florida counties.

The rising cost of campaigning, the advantages of judicial incumbency and networks, and a dearth of attorneys who want to be judges mean Sunshine State jurists are almost never challenged for their seats, according to judges and experts.

That lack of competition can make the courts more stable and insulate judges from politics, these experts say. But it can also make sitting judges, who know they're unlikely to face challengers for their seats, less accountable and unlikely to reevaluate how they do their jobs.

It also means Florida voters have little say over who their judges are come November, when most incumbent jurists up for reelection won't appear on the ballot.

"It's very hard to be defeated at the polls if you're an incumbent judge. You really have to screw up royally," said J. Edwin Benton, political science professor at the University of South Florida. "You really have to mess up big-time in order to lose a judicial election."

A Paucity of Challengers

Across Florida, only 10 of the 200 incumbent circuit court judges running for reelection this cycle drew challengers, according to the Florida Division of Elections.

Sitting South Florida judges in particular faced a glaring lack of competition for their seats.

In addition to Broward County, where just three out of 27 incumbents drew challengers in the recent primary, in Palm Beach County the 12 incumbent circuit court judges running for reelection had no challengers.

All 15 incumbent circuit court judges up for reelection in Pinellas County and all 21 sitting circuit court judges running in Miami-Dade County ran unopposed as well.

The same was true in Seminole and Brevard counties, according to the Division of Elections.

"Given its vibrant legal community and the significant number of talented attorneys in the region, it's surprising that there are so few challengers in South Florida," said G.C. Murray II, an attorney who runs Florida judicial campaign strategy firm Ballot to Bench Consulting.

Circuit Judge Maria Elena Verde-Yanez wasn't necessarily surprised that she didn't draw a challenger for her seat in the state's Eleventh Judicial Circuit, though she was relieved, she told Law360 Pulse.

She and her colleagues try not to expect to run unopposed, Judge Verde-Yanez said. But she acknowledged that practicing lawyers in the state "only run against the judges who really aren't doing a good job."

Circuit Judge Charlie Crawford wasn't surprised at all when no one challenged him for reelection this cycle, he said. Judge Crawford hasn't drawn an opponent in any of his reelection bids for his seat in the Eighteenth Judicial Circuit since he was first elected in 2006, he said.

"The perception is it's hard to beat an incumbent, and we have good judges who are doing a good job," Judge Crawford said. But he added, "I wish there was more competition."

Networks, Money and Respect

A host of factors constrain electoral competition for incumbent judges in Florida and elsewhere, according to experts.

In addition to having name recognition, incumbent judges "are generally perceived to be more well-connected," shareholder Bridget Smitha and associate Robert J. Walters, who work on Stearns Weaver Miller Weissler Alhadeff & Sitterson's election and political law team, said in an email to Law360 Pulse.

That networking advantage "is particularly strong" in bigger counties like Miami-Dade and Palm Beach — some of the least competitive for sitting judges this cycle — since they have large, established legal communities, according to Murray.

"The professional networks in these regions are robust, and many attorneys may find it imprudent to challenge an incumbent," Murray explained.

The skyrocketing cost of campaigning also discourages attorneys from challenging sitting judges, according to judges and experts.

"When I ran in 2006, it cost me \$4,000. There are people now that are spending \$250,000, which is insane," Judge Crawford said. "And obviously the bigger the area, the more it costs."

Judicial campaigns are particularly expensive in large counties where media buys, mailers and other campaign activities require more funding, echoed Murray.

Raising that money can be especially difficult for judicial candidates, who face more stringent restrictions on fundraising than do candidates for other offices, according to Smitha and Walters.

That makes the cost of election campaigns the biggest barrier to running for judge, Judge Crawford said.

"Almost everybody now, if they have competition, they're dumping \$100,000 in an account from themselves or a loan or something just to try to scare other people off," he added.

That price tag seems even more intimidating when compared to judicial salaries, which are often dwarfed by what attorneys can make in private practice, experts point out.

"Many skilled attorneys may be reluctant to leave lucrative positions in private practice to pursue a judicial role that offers lower compensation and the added burden of campaign expenses," Murray explained.

Others, though, say it's the respect that sitting judges command that really dissuades potential challengers, who often run against incumbents only if those judges are perceived as being particularly incompetent.

When Judge Verde-Yanez decided she wanted to be a judge in 2012, she waited for a seat to open rather than challenge an incumbent because she liked all the judges on the bench and thought they were doing a good job, she explained.

"We like to think of the bench as something we want to protect and keep if it's a good bench. So if a judge is doing a good job, and they're fair and honest and hardworking, they tend not to draw opposition," Judge Verde-Yanez said.

Attorneys seem to be returning the favor. Since she was first elected in 2012, Judge Verde-Yanez has twice run for reelection unopposed.

Stability, Consistency and Impartiality

This lack of electoral competition doesn't seem to be harming Florida's judiciary, most experts say.

Judges who don't constantly face electoral challenges can focus on their caseloads rather than campaigning, which can lead to more consistent and thoughtful decision making, according to Murray.

Avoiding the political pressures of a campaign may also help those judges remain impartial, he added.

The fact that nearly all incumbent judges are reelected to their seats also contributes to consistency and stability on the bench, according to experts.

New judges have to learn not just how to do their job, but also to handle a wide variety of cases, including criminal, civil, probate, domestic violence and family cases, Judge Crawford said. Since most attorneys specialize, it takes newly elected jurists time to learn those unfamiliar areas of the law.

"So you invest that time, you spend two years in the family division, then all of a sudden, somebody else comes in and kicks you out," Judge Crawford posited. "Well, then, that's somebody else spending two years in the family division trying to learn how to do the same thing you just learned how to do."

"If there was a lot of turnover, you've got a lot of new people coming in who don't know the subject matter that well, and I think that's bad for the public," he added.

More electoral competition is unlikely to improve Florida's judiciary, according to Benton, who explained that judges' job is to simply follow the law, a job that most judges do pretty well.

So more competition doesn't mean better judges will be elected, Benton said.

"If people seem happy with the quality of justice that's being dispensed on both the criminal and the civil side, then why tamper with it?" Benton asked. "If it ain't broke don't fix it."

Keeping Everybody in Check

But the lack of electoral competition can lead to complacency among Florida's sitting jurists and potentially diminish the accountability that elections are supposed to provide, some of these same experts also caution.

Judges who aren't held accountable through elections might feel less pressure to adapt or innovate, potentially making the state court system less responsive, according to Murray.

"Without the pressure of an opponent, there's less incentive for judges to engage with the public or reflect on their performance as jurists," Murray said.

Judge Crawford put it more bluntly.

"Anytime somebody is breathing down your neck, you pay attention, you do a better job, you don't get complacent," he said.

And it can be a good idea to inject new blood into the judiciary, according to Benton, who explained that younger judges may bring updated knowledge to the courtroom that an older judge may not

have.

In fact, judges who are never challenged for their seats can remain on the bench too long, well past the age when they should have stepped down, according to Judge Crawford, who pointed out that Florida recently raised the mandatory retirement age for its judges from 70 to 75, which he thinks was a mistake.

Recent increases in judicial salaries in the Sunshine State, which have made judgeships more appealing, have already led to more younger attorneys running for seats on the bench, Crawford said, which he said is a positive development.

In fact, both he and Judge Verde-Yanez say that despite the advantages that come with a lack of challengers, they would like to see more electoral competition for the bench.

Ultimately, a seat on the bench belongs to the people, not to the judge, according to Judge Verde-Yanez.

"If you ask me my personal opinion," Judge Verde-Yanez said, "I think the election process keeps everybody in check."

--Editing by Robert Rudinger.

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