

COMMISSION ON APPELLATE COURT APPOINTMENTS

MINUTES

September 30, 2016

PRESENT: Chief Justice Scott Bales, Chair; Krista Carman; Joseph Cuffari; Buchannan Davis; William Ekstrom, Jr.; Joshua Hall; Harry Hengl; Monica Klapper; Phil Masciola; Tracy Munsil; Jonathan Paton; Benjamin Reeves; Mick Rusing; Phil Townsend and Charie Wallace

ABSENT: None

Chief Justice Scott Bales, Chair, called the meeting to order at 7:30 a.m.

Introductions

Chief Justice Bales introduced himself and noted a quorum of the Commission. He welcomed the public and the Commission members.

He explained the purpose of the meeting is to interview for the two new positions created on the Arizona Supreme Court.

Public Comment

Chief Justice Bales asked for public comment on the candidates that will be interviewed for the Arizona Supreme Court positions. He explained to the speakers that each candidate is limited to three minutes of public comment and asked them not to repeat comments by previous speakers about the same candidate.

Michael O'Connor spoke on behalf of Andrew Gould and Pamela Frasher Gates.

Michael Morrissey spoke on behalf of John Lopez.

Timothy Paris spoke on behalf of Thomas Gilson.

Rob Elleman spoke on behalf of Kent Cattani

John Doran spoke on behalf of Pamela Frasher Gates.

Brad Astrowsky spoke on behalf of Andrew Gould.

Bruce Cohen spoke on behalf of Pamela Frasher Gates.

Keith Berkshire spoke on behalf of Peter Swann.

Helen Davis spoke on behalf of Peter Swann

Spencer Bell spoke on behalf of Jennifer Perkins.

Whitney Cunningham spoke on behalf of Samuel Thumma.

Colleen McNally spoke on behalf of Samuel Thumma.

Disqualifications and Disclosures

Chief Justice Bales asked the Commission if there were additional disqualifications or disclosures and explained rules about what is required of Commission members in terms of disclosure and recruitment.

Harry Hengl disclosed that he and Judge Gould teach a class on Arizona Constitution together.

Ben Reeves disclosed that Judge Thumma is married to a partner at his firm.

Interview Questions

A motion to go to executive session for the purpose of selecting interview questions was made at 8:15 a.m. The motion was seconded and passed unanimously.

The Commission returned to public session at 9:08 a.m.

Chief Justice Bales admonished public that in fairness to all candidates, not to share questions to anyone until the end of the interviews.

Due Diligence Reports

Commission members delivered the due diligence reports for Andrew Gould, Robert McWhirter, Kent Cattani and Pamela Frasher Gates. The Commission agreed to discuss the remaining due diligence reports after the following break.

Candidate Interviews

From 9:27 a.m. to 11:15 a.m. the Commission interviewed Andrew Gould, Robert McWhirter, Kent Cattani and Pamela Frasher Gates.

Commission members delivered the due diligence report for Peter Swann, Jennifer Perkins, John Lopez, Samuel Thumma and Thomas Gilson.

The Commission recessed for lunch at 11:37 p.m.

Chief Justice Bales called the meeting back to order at 12:23 p.m.

Candidate Interviews

From 12:25 p.m. to 2:55 p.m. the Commission interviewed Peter Swann, Jennifer Perkins, John Lopez, Samuel Thumma and Thomas Gilson.

After the interviews concluded Monica Klapper disclosed she had a previous case with Thomas Gilson.

Discussion of Applicants and Interviews and Selection of Nominees

Chief Justice Bales reminded the Commission of the constitutionally required balance of political affiliations among nominees. He explained he would only vote on a candidate in the event of a tie.

Chief Justice Bales opened the floor for individual nominations to a non-binding list of nominees to be sent to the Governor.

Mick Rusing moved to add Samuel Thumma to the list. The motion was seconded and passed by a vote of 14-0-1 with Chief Justice Bales abstaining.

Joe Cuffari moved to add John Lopez to the list. The motion was seconded and passed by a vote of 12-2-1 with Chief Justice Bales abstaining.

Harry Hengl moved to add Pamela Frasher Gates to the list. The motion was seconded and passed by a vote of 14-0-1 with Chief Justice Bales abstaining.

Jonathan Paton moved to add Andrew Gould to the list. The motion was seconded and passed by a vote of 11-3-1 with Chief Justice Bales abstaining.

Phil Townsend moved to add Peter Swann to the list. The motion was seconded and passed by a vote of 13-1-1 with Chief Justice Bales abstaining.

Bill Ekstrom moved to add Robert McWhirter to the list. The motion was seconded and passed by a vote of 12-2-1 with Chief Justice Bales abstaining.

Joe Cuffari moved to add Thomas Gilson to the list. The motion was seconded and passed by a vote of 10-4-1 with Chief Justice Bales abstaining.

Charie Wallace moved to finalize the tentative list. The motion was seconded and Chief Justice Bales asked for any discussion.

Krista Carman moved to nominate Kent Cattani, the motion was not seconded and after further discussion the Commission voted on the pending motion to finalized the tentative list.

The motion to finalize the tentative nomination list of **Pamela Frasher Gates, Thomas Gilson, Andrew Gould, John Lopez, IV, Robert McWhirter, Peter Swann** and **Samuel Thumma** for submission to Governor Ducey passed by a vote of 11-3-1 with Chief Justice Bales abstaining.

Adjournment

Chief Justice Bales thanked the members for their service. At 3:13 p.m., it was moved that the meeting be adjourned. The motion was seconded and passed unanimously.

Respectfully submitted,

Charie Wallace
Commission Secretary