

Surveys  
c/o Center for Arizona Policy  
PO Box 97250  
Phoenix, AZ 85060  
Azvoterguide.com/2022-judicial-survey/

September 10, 2022

Please accept this letter as a more complete discussion of my judicial philosophy in place of the six survey questions. My judicial philosophy is grounded in the principles of the Declaration of Independence, our federal and state constitutions, and the Bill of Rights.

The Declaration of Independence set forth eternal principles that are just as applicable today as when the words were first written. Paramount are the self-evident truths “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.-- That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed . . . .” Accordingly, I am mindful that written law guarantees rights that pre-existed the formation of our federal and state governments and that the exercise of judicial review must protect and preserve these truths.

In the exercise of judicial review, I am equally mindful of Alexander Hamilton’s observation in Federalist No. 78 that the judicial branch is only to exercise judgment, not force or will. Likewise, in our Arizona Constitution, it is clearly set forth that:

The powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and, except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others.


Therefore, the exercise of judicial review must be undertaken with an awareness that courts do not write the law but apply it with fidelity to the principles of law as set forth in the documents noted above.

In applying the law, my approach is straightforward: I apply the original public meaning of the words as written in order to give the best effect to the intent of those who drafted the law, whether that is the legislature or the people through the initiative process. In this manner, should a law no longer adequately meet the circumstances it was enacted to address, a faithful interpretation will highlight for the legislature and people of Arizona what must be changed to render a different result. This approach also ensures that it is the intent of the drafters that remains constant for a law’s meaning and not the makeup of any number of justices on the Arizona Supreme Court.

Finally, the general approach I take as a Justice of the Arizona Supreme Court is always guided by the oath I took upon my appointment to:

[S]upport the Constitution of the United States and the Constitution and laws of the State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of [my] office . . . according to the best of my ability, so help me God.

Sincerely,

  
William G. Montgomery  
Justice, Arizona Supreme Court