



## LEAGUE OF WOMEN VOTERS® OF FLORIDA

Florida voters will decide on Nov. 8 whether to retain three Florida Supreme Court justices: Charles T. Canady, Jorge Labarga and Ricky Polston.

### **A note on Florida's Judiciary**

The League of Women Voters of Florida believes an independent judiciary is crucial to the administration of justice at both the federal, state and local levels. In Florida, Supreme Court and appeals court judges are appointed by the governor from a list of candidates compiled by a nominating commission. Once seated, judges should be shielded from the political influence and whims of the executive and legislative branches so jurists can render impartial decisions based on the Constitution, the law and the facts. The nation's founders recognized the importance of judicial independence, with Alexander Hamilton writing in one of The Federalist Papers that it "may be an essential safeguard against the effects of occasional ill humors in the society." The League opposes efforts to politicize the judiciary and weaken its status as a co-equal and independent branch of the government.

### **Biographies**

#### **Justice Charles T. Canady**

Justice Canady was born in Lakeland and received his bachelor's degree from Harvard University and his law degree from the Yale Law School. He was in private practice from 1979 through 1992 and served in the Florida House of Representatives from 1984 until 1990 and in the U.S. House of Representatives from 1993 until 2001. He served as chief counsel to Gov. Jeb Bush and was appointed to the Supreme Court in 2008 by Gov. Charlie Crist. Justice Canady served as chief justice from 2010 until 2012. Read his full bio [here](#).

#### **Chief Justice Jorge Labarga**

Justice Labarga is originally from Cuba. After arriving with his family at age 11 he lived in Pahokee. He received his bachelor's and law degrees from the University of Florida. He was an assistant public defender in South Florida from 1979 until 1982 and a prosecutor in West Palm Beach from 1982 until 1987. He was in private practice until 1996 when Gov. Lawton Chiles appointed him to the circuit court in Palm Beach County. Justice Labarga was appointed to the Fourth District Court of appeal in 2008 by Gov. Charlie Crist and to the Supreme Court the following year. Read his full bio [here](#).

#### **Justice Ricky Polston**

Justice Polston is from Graceville, Fla., and received his bachelor's and law degrees from Florida State University. He was in private practice from 1987 until 2000 and is a certified public accountant who had an accounting practice from 1977 until 1984. He has been an adjunct law professor at FSU since 2003. He was a judge at the First District Court of Appeal from 2001 until 2008. Justice Polston was appointed to the Florida Supreme Court in 2008 by Gov. Charlie Crist. Read his full bio [here](#).

## Key cases

Here are some key cases the Florida Supreme Court heard in recent years, and how the justices up for merit retention voted in those cases. Voters will decide on Nov. 8 whether to retain justices Charles T. Canady, Jorge Labarga and Ricky Polston. (Read the complete opinions on these and other cases at the court's opinions page [here](#).)

### **Rick Scott vs. George Williams (2013)**

Summary: The court ruled 4-3 to uphold a law requiring state workers to contribute 3 percent of their salary into the state's pension fund. The law had been challenged by state employees who maintained it violated their rights under the state retirement system. Justices Labarga, Canady and Polston all concurred with the majority.

### **Bob Graham vs. Mike Haridopolos (2013)**

Summary: The court ruled unanimously that the state Legislature, not the state Board of Governors, had the power to set tuition rates at public universities. The decision left authority over tuition and fees in the hands of the Legislature rather than the governing board. Justices Canady, Polston and Labarga all concurred.

### **Estate of Michelle Evette McCall vs. United States of America (2014)**

Summary: The court ruled 5-2 that Florida's limit on noneconomic awards in medical negligence cases that result in death was unconstitutional, which meant juries could award more than \$1 million to plaintiffs. Justice Labarga concurred with the majority; justices Canady and Polston dissented.

### **Richard Masone vs. City of Aventura (2014)**

Summary: The court ruled 5-2 that the cities of Aventura and Orlando exceeded their authority by passing red-light camera ordinances prior to 2010. (Red-light cameras were later authorized by the Legislature in 2010.) Justices Canady, Labarga and Polston concurred.

### **The League of Women Voters of Florida vs. Ken Detzner (2015)**

Summary: The court ruled 5-2 that the Legislature had violated the state Constitution by drawing congressional districts that were meant to favor the Republican Party and incumbents and ordered the Legislature to redraw eight of the state's 27 U.S. House districts. Justice Labarga concurred with the majority; justices Canady and Polston dissented.

### **Board of Trustees, Jacksonville Police & Fire Pension Fund vs. Curtis W. Lee (2016)**

Summary: The court ruled 5-2 that someone who sues a public agency for violating the state Public Records Act must pay the plaintiff's legal fees if the agency is found to have violated the act. Justice Labarga concurred with the majority; justices Canady and Polston dissented.

## FAQ

*The FAQ below is provided courtesy of The Florida Bar.*

### **Why are appeals court judges and Supreme Court justices on the ballot this year?**

Florida law requires Florida Supreme Court justices and appeals court judges to be placed on the ballot in nonpartisan elections every six years so voters can determine whether they should remain on their courts for another six-year term. These are called "merit retention" elections. This year, three Supreme Court justices and 28 appeals court judges will be on the ballot.

**What do “Yes” and “No” votes mean?**

A “Yes” vote means you want the judge or justice to stay in office. A “No” vote means you want the judge or justice to be removed from office. The majority of voters decides.

**Do appeals court judges and Supreme Court justices have opponents?** No. Your vote determines whether each judge or justice should remain on the court. They are not running against opponents or each other. Merit retention elections are nonpartisan. In nonpartisan elections, candidates appear on the ballot without reference to any political party, (e.g. Democrat or Republican). Florida law requires judicial elections to be nonpartisan in order to preserve impartiality.

**How do appeals court judges and Supreme Court justices get into office?** The governor appoints judges or justices from lists submitted by Judicial Nominating Commissions, which screen candidates and make recommendations based on their merits. Newly appointed judges go on the ballot for the first time within two years after appointment. If the voters retain them, they then go on the ballot again every six years.

**Which courts are subject to merit retention elections?** The Florida Supreme Court and the five District Courts of Appeal are subject to merit retention elections

**Can judges who commit unethical acts be removed from office?** Yes. This can happen after an investigation by the Judicial Qualifications Commission. The JQC ([www.floridajqc.com](http://www.floridajqc.com)) is an independent agency created through the Florida Constitution to investigate alleged misconduct by Florida state judges. Through this system, judges have been removed from office.

**Can appeals court judges and Supreme Court justices state their views on issues that may come before them?** [Canon 7 of the Code of Judicial Conduct](#) forbids judges and justices from saying how they will decide future cases. Judges and justices must remain impartial and decide cases without regard to their personal views or beliefs.

**Can I read the opinions of the judges and justices in cases they decided?** Yes. Records of judges’ decisions can be found on the decision pages of the websites for the District Courts of Appeal and the Florida Supreme Court and through [www.floridabar.org/TheVotesInYourCourt](http://www.floridabar.org/TheVotesInYourCourt).

**Can I watch videos of the justices and appeals court judges at work?** Yes. Court arguments are webcast live and archived on court websites. You can find Supreme Court video at <http://wfsu.org/gavel2gavel/>. You can find appeals court video through the courts’ websites at <http://www.flcourts.org/florida-courts/district-court-appeal.stml>.

**How can I learn more about the judges’ and justices’ backgrounds?** Biographies of the judges and justices are available on their courts’ websites accessible through [www.FloridaBar.org/TheVotesInYourCourt](http://www.FloridaBar.org/TheVotesInYourCourt).((FLORIDA BAR BIOS WILL BE LIVE IN MAY.))

**How did Florida decide to use the merit retention election system?** In the mid-1970s, Florida voters overwhelmingly approved a constitutional amendment requiring that the merit retention system be used for all appellate judges. This happened in response to public concern over abuses under the former system of contested elections.

**Where can I find results from prior merit retention elections?** The Florida Division of Elections maintains a searchable database of election results since 1978. Merit retention elections occur only during general elections in even numbered years if any appeals court judges or justices are nearing the end of their terms ([www.dos.myflorida.com/elections](http://www.dos.myflorida.com/elections)).