

# **Pa. Bar rips GOP judge's high court ad**



Maria McLaughlin, Superior Court judge, is the Democratic candidate for state high court.



Kevin Brobson, Commonwealth Court president judge. His campaign defended the ad as accurate. TYGER WILLIAMS / Staff

BY ANDREW SEIDMAN (STAFF WRITER)

The TV ad is no-holds-barred.

It bluntly attacks a decision of the Democratic candidate for Pennsylvania Supreme Court. And on Saturday, the state Bar Association said the spot went too far.

The ad says the Democratic contender, Superior Court Judge Maria McLaughlin, "chose to void the guilty plea of a drunk driver who admitted to killing a pregnant woman and her unborn child."

What the ad doesn't say is that McLaughlin hadn't declared the defendant not guilty or thrown out the case. She had merely joined another judge in saying the man's defense lawyer had bungled his job and that the defendant should be retried.

The ad surfaced last week as the race for an open seat on the state Supreme Court took a negative turn in the late stages of the Nov. 2 election. Until then, both Republican Kevin Brobson and McLaughlin, a Democrat, had focused their advertising on positive,

if tame, messages about their qualifications. That changed when Brobson, president judge of the statewide Commonwealth Court, launched his Oct. 18 attack ad.

On Saturday, the Bar Association said the ad crossed the line, violating standards of accuracy and integrity in campaign advertising that both campaigns agreed to follow as part of the bar's candidate evaluation process.

In its letter, a copy of which was obtained by The Inquirer, the bar's Judicial Campaign Advertising Committee said it had directed Brobson's campaign to "immediately withdraw" the ad. Alternatively, the Brobson campaign can issue a news release clarifying "those portions of the advertisement that the JCAC has found to be in violation of its Guidelines."

Specifically, the letter says the ad violates the bar's guidance that campaigns should "refrain from making statements that might be subject to misinterpretation or distortion" and "should not omit or obscure information necessary to prevent misinterpretation."

In a statement, Brobson campaign manager Tim Craine described the alleged violations as "picayune." The statement did not say what further action, if any, the campaign would take.

"Our campaign and Judge Brobson are gravely concerned that a process designed to sort out disputes between campaigns over advertisements in a confidential setting has been compromised. We respected the process," Craine said. He added that the process has now "lost any credibility."

"Judge Brobson has responded to questions about his record throughout this campaign. Judge McLaughlin should be willing to do the same if she wants to sit on the highest court in Pennsylvania."

The 30-second spot - airing in the Philadelphia, Harrisburg, and Scranton markets - is hardly out of place given the anything-goes state of modern political advertising. But judicial candidates are subject to more stringent rules than candidates for other offices.

Bruce Ledewitz, professor of law at Duquesne University School of Law, said judges sometimes have to make unpopular decisions.

"Unlike legislators and governors, judges do not get to vote their own preferences or the preferences of the voters - they are supposed to follow the law," he said. "... Judges are sometimes obligated to vote for something neither they nor their constituents want."

The Nov. 2 election is the first contested race for the high court since Democrats won three seats and a majority on the seven-member bench in 2015. Democrats have a 5-2 majority, so the balance of power won't change no matter which candidate wins the seat. The slot is being vacated by Thomas Saylor, a Republican who will reach the mandatory retirement age of 75 later this year. Both candidates have been highly recommended by the Bar Association.

McLaughlin's campaign says Brobson is out of line. "Besides casting a shadow on Judge McLaughlin, this type of politics in judicial elections casts a shadow on our entire judiciary," campaign manager Celeste Dee said in an interview.

On Saturday, Dee said the McLaughlin campaign would have no comment on the Bar Association letter. She said she was troubled that the letter had been leaked.

Brobson's campaign also fired back, saying McLaughlin, a former assistant district attorney in Philadelphia, "has repeatedly and falsely referred to herself in the present tense, as 'the only prosecutor in the race.' She is not currently a prosecutor. She is a judge."

Brobson's ad, showing an image of a man smoking a cigar, claims one of McLaughlin's "largest donors is indicted by the FBI for political bribery." That was a reference to John J. Dougherty, the Philadelphia labor leader who's on trial facing charges that he bribed a city councilmember. A political action committee affiliated with Dougherty's electrical workers' union has contributed \$50,000 to McLaughlin's campaign.

The ad's drunken-driving language references McLaughlin's vote in a case involving an Altoona-area man who pleaded guilty in 2017 to charges stemming from a 2015 incident in which he was driving while intoxicated and struck and killed a pregnant woman who was standing behind her disabled vehicle.

The driver, Tarence Mosey, was sentenced to three to six years in prison but filed an appeal. He alleged he received inadequate representation at trial.

McLaughlin served on the three-judge Superior Court panel that heard the case. In a 2-1 decision, McLaughlin and Judge James Gardner Colins reversed the lower court's order, finding that Mosey's defense had given him incorrect advice before he pleaded guilty.

In 2020, facing a new trial, Mosey pleaded guilty again. He is in state prison.

Brobson's campaign noted McLaughlin could have joined the dissent.

"She chose to join the opinion that voided the defendant's guilty plea," the campaign said. "She therefore chose the result in the case, a fact the voters deserve to know in the context of misrepresentations she is making about currently being a prosecutor and a fact that is well within the guidelines."

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