



For Immediate Release
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Butler Campaign Statement: Mike Gableman, Judicial Activist

MILWAUKEE – Erin Ceello, Butler campaign communications director, today released the following statement:

“Mike Gableman is ‘running a sleazy campaign that seeks to mislead the voters of Wisconsin’ (*The Capital Times*, 3/1/08), and the press release he issued yesterday is just one more example of what voters have come to expect of him in this election.

“Once again, Mike Gableman distorts a ruling – *State v. Stenklyft* – that Justice Butler joined and complains about the result. And once again, it appears that Gableman hasn’t read the case, doesn’t understand it, or is deliberately misrepresenting the facts.

“Gableman has made a habit of complaining about the results of a case without providing any explanation of how he believes the law should have been applied differently to a specific set of facts. In this case, he’s advocating for the Wisconsin Supreme Court to ignore the Constitution and make new law, which sounds a whole lot like being a judicial activist.

“If Mike Gableman can’t be trusted to understand opinions written by the Supreme Court, how can he be trusted to write his own?”

“Gableman also seems to have trouble with basic math. Justice Butler has the support of five of Wisconsin’s largest law enforcement organizations, representing more than 18,000 professionals working every day to keep our streets safe, and Gableman has the support of only one law enforcement organization.”

Following is a fact check on yesterday’s false allegations made by Gableman:

Allegation: Butler sides with criminals in nearly 60 percent of the cases taken up by the Supreme Court.

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FACT: Justice Butler has voted to uphold criminal convictions in 97 percent of cases brought before the court. Even if you only select those criminal cases in which the Court has issues a written opinion, Justice Butler has ruled in favor of a criminal appeal only about one-third of the time, a rate not much different than any other member of the court. And he is in the majority 89 percent of the time – the second highest rate of any justice on the court (Source: *Wisconsin Law Journal*, “Crooks Still Supreme Court’s Swing Vote,” August 20, 2007). There is no reasonable way to view the body of work acted upon by the Wisconsin Supreme Court and end up with a result of “nearly 60% of the time.”

Allegation: *State v. Stenklyft*: Butler’s vote reversed a state law that gave prosecutors the right to veto an inmate’s petition for early release. The ruling prohibits prosecutors from using this tool to keep violent criminals, drug dealers, sex offenders and other criminals from being released early.

FACT: A majority of the Wisconsin Supreme Court concluded that the statute in question was unconstitutional, in that it allowed a party, a District Attorney, to exercise the powers of the judge. This violates the separation of powers doctrine. In this case, Gableman is clearly saying that he would not follow the Constitution, and would instead use the power of the court to make new law, – an interesting move for a candidate who claims to be a “judicial conservative,” and one that looks strikingly similar to legislating from the bench.

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