

Name: Jay Bender  
Court: Collin County Court at Law #6

- 1 What current or past judge do you most want to inspire your approach to judicial excellence, and why?

We have many wonderful judges here in Collin County. Each of them has their own unique style and approach to being a judge. I have also practiced in many courts outside of Collin County and have learned from those judges as well. Therefore, my inspiration is more of a conglomerate of all of the judges I have practiced in front of as a model of what to do and what to avoid. However, if I had to choose one person who has stood out the most, it would be Judge Dan Wilson. Judge Wilson is one of the few judges in the county who understands the importance of obtaining a blood draw warrant quickly in DWI cases. Most DWI's do not occur between 9 and 5, but he is willing to sign these warrants at any time of day or night. If elected, I plan to carry out the same legacy that Judge Wilson and others like him have started. Being a judge is not a 9 to 5 job, but a service to the community. That is why I am running; I want to service to our community.

- 2 What has been the greatest accomplishment in your legal career? In your personal life?

Wow, this is a tough question. In my legal career, I am proud to have only lost one DWI jury trial as lead prosecutor and to have taught the DWI section at the Collin County Citizens Prosecution Academy, but my greatest accomplishment was defending a homeless man in Dallas County who was facing a minimum 25-year sentence for Robbery. Even the minimum punishment would have been a life sentence given his age and health. This man had been in jail for over a year, and during his first jury trial, 11 of the 12 jurors wanted to find him guilty. Thankfully, the tenacious 12th juror held onto their belief that he was not guilty. I was appointed to represent him on the retrial. After reviewing the testimony and evidence from the first trial, I requested evidence produced at the first trial be DNA tested. That DNA evidence proved he did not commit the crime. Within 6 weeks of my representing him, the Robbery case against him was dismissed. This man almost went to prison for the rest of his life, but the case was ultimately dismissed. To that 12th juror, wherever you are, thank you!

My greatest accomplishment in my personal life is having graduated from college. I paid for all of my education. During college I served in the U.S. Navy Reserves, I was an intercollegiate athlete and a school tutor. Furthermore, I graduated from Austin College in Sherman, Texas *cum laude* with a double major. But that is not why this is my greatest accomplishment. It is my greatest accomplishment because I was the first person in my family to have graduated from college.

3 What, if anything, would you change to improve the procedures and efficiency of the court you are seeking?

I would change how the civil and criminal dockets are currently handled. Specifically, I would not intermingle them, but separate them so as to be more efficient on the court staff as well as the lawyers who practice in this court.

4 Do you feel that ALL citizens have equal and adequate access to justice in our county? How would you improve that access?

This court handles civil cases but the vast majority of cases (approximately 85%) are criminal. There is no right to counsel for a civil matter, one in which money damages are sought. Therefore, I would say yes, ALL citizens have equal and adequate access to justice in civil matters because they can hire any lawyer they choose.

As far as the criminal cases go, I do not have enough information to give an accurate answer this question. True, I am on the list of court-appointed lawyers from First Degree felonies all the way down to the cases handled in this court that I am seeking, Class "B" misdemeanors. But, I do not know what criteria are used to select who qualifies for a court-appointed attorney and who does not. The Office of Indigent Defense receives the application and they determine who qualifies. However, I am interested in ensuring that the truly indigent get proper counsel as evidenced by the fact that I do accept court appointments. I accept court appointments because I do not think that our Constitution checks itself at the courthouse steps simply because someone cannot afford an attorney (*see* my answer to question #2). Moreover, this is the law as stated in the 6th Amendment of the U.S. Constitution, the Texas Fair Defense Act and H.B. 1178.

5 Collin County tracks indigent defense dollars ordered by each judge. What effect would that reporting have on your decisions to order that the county pay for a defendant's defense?

None. Again, I am fully aware of tax payer burden, but the truly indigent are entitled to counsel. Furthermore, they are required to get proper counsel under the Texas Fair Defense Act as well as Texas House Bill 1178.

6 What do you perceive as the greatest obstacles to justice in Collin County?

Self representation in a criminal case.

7 Incarceration is the most expensive criminal sanction available. How would that fact affect your sentencing decisions?

I am cognizant of tax payer money, but it would not affect my sentencing decision. Sentencing is always a balance between punishment just for the sake of punishing, deterrence and rehabilitation. If the facts of a case warranted jail time either as the sole sentence or as a condition of probation, then that is what is best for that specific case. I understand the importance of this balance, as I have seen

both sides as a former Prosecutor in Dallas and Collin Counties and a current Board Member of the Collin County Criminal Defense Lawyers Association.

- 8 Without commenting on a specific case or type of cases, should Collin County explore more or different types of alternative sentencing? What do you think works? What would you like to try?

I think exploring sentencing alternatives is a great idea. The only constant is change and if that change leads to being more successful, then everyone is better off. I think DWI court and Divert programs work based upon the statistics I have seen. I don't pretend to have all of the answers to cure all of the world's defects; therefore, I would be receptive to almost anything so long as the safety of the public is not at risk and it leads to a better outcome.

- 9 Recently a Dallas judge made the news when he replaced a white juror with a minority one in a capital trial where the jury was all white and the defendant was not. Do you believe it is important for a minority defendant to have a jury that contains minority members?

I do not know the facts of what happened in Dallas nor is it appropriate for me to comment on a pending case. However, *Batson v. Kentucky*, which is a U.S. Supreme Court decision outlining the jury selection process and the striking of a potential juror for a valid cause, is the law. I will follow the law.

- 10 When a judge's sense of justice appears to be at variance to the strict application of the law, what approach should an ethical judge take to resolve the conflict?

Again, this court handles civil and criminal matters. Civil courts are equitable courts and therefore the judge is legally allowed great leeway in his/her decision making. However, criminal courts are courts of law. There are no equitable remedies in criminal matters. An ethical judge must follow the law. I will follow the law. I do not believe in judicial activism.

- 11 Do you believe that our system of partisan election of trial judges should be continued? How can it be improved?

I will let you know after this election. In all seriousness, I am conflicted about this issue. I am the only candidate in my race to have served in our military. Therefore, I have fought for our freedoms including the freedom to vote! But, there is a candidate in my race who has never handled, let alone tried, a criminal case in any County Court at Law in Collin County. This same candidate would not even qualify to be a court-appointed attorney in this court, but this person is still seeking to be the judge of it. Herein lies the conflict. When voting we run the risk of electing the popular over the most-qualified.

- 12 Tell the voters one thing about yourself that isn't on any website, nor discussed at any forum.

We named our son Brighton because it means "one who is loved". Never a truer statement.

