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JUDICIARY

How to Police Judicial Dementia? One Chief Judge Plays Cop, While Others Try Gentle Persuasion

POSTED JAN 18, 2011 05:31 PM CST

BY DEBRA CASSENS WEISS (HTTP://WWW.ABAJOURNAL.COM/AUTHORS/4/)

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At age 89, U.S. District Judge Jack Weinstein of Brooklyn has a reputation as one of the nation's most respected legal minds.

There is no requirement for a neuro...kup for federal judges, but Weinstein gets one every year, ...nt report by ProPublica and Slate (http://www.propublica.org/...for-federal-judges-raises-...out] principles, I know, and my judgment is the same—it may be better," Weins. ...lications.



Judges, like the rest of the population, are at increasing risk for Alzheimer's and dementia as they age, the story points out. A ProPublica survey, conducted last year, found that about 12 percent of the nation's federal judges are age 80 or older; eleven are over age 90 and one is over 100.

The aging of the judiciary can be a problem under the life-tenure system established by the Constitution at a time when the average American died at around age 40. Currently, there is no formal process to evaluate competency. "Instead, the institution relies on other judges to monitor colleagues, and, working discreetly behind the scenes, to push out enfeebled judges gently," the story reports.

The story identified Frank Easterbrook as the judge who may be most aggressive in policing competency. The chief judge of the Chicago-based 7th U.S. Circuit Court of Appeals, Easterbrook has arranged for two colleagues to see neurologists. One was diagnosed with Alzheimer's and retired, the story says. The other returned to the bench after a stroke, but Easterbrook removed him from criminal cases because of worries about the judge's executive function.

The story questions whether some judges have stayed on the bench despite displaying confusion or changes in judgment, and gives some examples. The article begins with U.S. District Judge Richard Owen of Manhattan, who in some cases appeared to be confused or exhausted during court hearings. Owen now only hears cases that can be decided entirely on written motions.

Previous coverage:

ABAJournal.com (http://www.abajournal.com/news/article/conservative_4th_circuit_chief_judge_retires_due_to_illness/): "Conservative 4th Circuit Chief Judge Retires Due to Early-Onset Alzheimer's"

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Peter C. Lomtevas said:

Oh! So it's neurological issues. That's a nice way of identifying a problem with the bench.

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Old Lawyer said:

And also, Peter, a problem with practicing lawyers.

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