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Kitchens faces Perkins' challenge in circuit judge race

By John Mott Coffey

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Voters on Tuesday will decide whether to keep first-term 16th Circuit Court Judge Jim Kitchens of Caledonia for another four years or replace him with Starkville Alderman Roy Andre' Perkins.

In a district that covers Lowndes, Oktibbeha, Clay and Noxubee counties, the two men are running for one of its two circuit judgeships.

Seventeen-year veteran Judge Lee Howard of Starkville is being re-elected unopposed to the other court post.

In seeking re-election, Kitchens is stressing his experience as a judge and prosecutor for 10 of the 13 years he's been an attorney.

"Between being a trial attorney and a trial judge, I have tried well over 100 jury trials by myself," Kitchens said.

"I think experience in trying a vast number of cases before a jury is crucial to a circuit judge."

For his campaign, Perkins is highlighting his 18 years as a lawyer working on a wide array of legal matters, such as writing bills for legislators, arguing a case for the state before the Mississippi Supreme Court and representing clients in private practice.

"I have extensive experience and background as a result of being involved in numerous trials and hearings before various circuit, chancery, justice, municipal and federal courts in the state of Mississippi," he said.

"No matter whether the case involves civil law or criminal law, I have had a lot of experience dealing with both types."

Kitchens, 43, was elected as a 16th District circuit judge in 2002 after serving six years as an assistant district attorney. Prior to that, he worked as a state Supreme Court law clerk in 1994-96 for then-Chief Justice Dan Lee.

Perkins, 50, began practicing law in 1988. He's worked as an attorney for the Mississippi Legislature, the state Board of Nursing and Department of Corrections and was an assistant state attorney general.

He's been in private practice for 13 years in Starkville, where he's also been a city alderman since 1993.

Circuit courts handle criminal cases and civil lawsuits with large financial claims that go beyond the jurisdiction of justice courts and county courts.

In judging him, Kitchens said voters should see that he has more experience dealing with juries than Perkins.

"A circuit judge must be knowledgeable on the law and on jury instructions and other procedural issues because we do not have the luxury of recessing and taking a long extended break to bone up on the law or courtroom procedures," he said.

"I am a firm believer that you cannot get that kind of familiarity that one needs to be an effective and efficient judge by having only tried a few jury trials before taking the bench," he said.

Perkins said he's handled and been involved in at least 11 jury trials as an attorney.

"I have worked up numerous and countless cases for a jury trial, but many of them resolved themselves prior to the beginning of (the) jury trials," he said.

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He noted jury experience is not a prerequisite to being a judge.

"The number of jury trials that I have conducted and worked is not a qualification for circuit court judge," he said.

Kitchens said it should be.

"I would like the Legislature to require that circuit court judge candidates have some actual jury trial experience before they are qualified to run as a circuit judge," he said.

The affirmation and reversal rates in court appeals are a key way for determining how good judges are. Kitchens has been upheld most of the time by the state's two appellate courts.

"While I have been on the bench, I have resolved well over 1,000 civil and criminal cases," he said. "Out of 28 reported opinions by the Mississippi Supreme Court and Court of Appeals, I have been affirmed 25 times and I have had three cases reversed."

The most high-profile case Kitchens has judged during his first term on the bench involves Tyler Edmonds, the West Point teenager found guilty and sentenced to life in prison for helping his sister kill her husband in 2003. Edmonds maintains he falsely confessed to the crime.

The case has grabbed national attention.

The state Supreme Court in July agreed to consider whether Kitchens unconstitutionally disallowed Oktibbeha County jurors from hearing testimony that juveniles have a tendency to falsely confess to crimes.

While the state Court of Appeals in January upheld the conviction and Kitchens' ruling in a 6-2 vote, four of the six-judge majority said Edmonds' sentence seems too harsh. They suggested the Legislature change the law so judges wouldn't be required to send convicted juveniles like Edmonds to prison with no chance for parole until age 65.

Kitchens declined to say whether he supports being given more discretion in handing down sentences.

"I believe the rules of judicial conduct prevent me from telling another branch of government what sentences should be imposed upon certain crimes."

Perkins - who's being supported by Edmonds' attorney and family - said the Legislature should relax the sentencing law for juveniles convicted of murder.

"The judges should be given this discretion just as they are given discretion in sentencing other offenders," he said. "There may be some facts and circumstances involved in the case that may warrant the judge having some discretion. Even if the discretion is given, the sentencing judge can still remain tough on crime."

Court candidates, who don't run with party labels, are restrained in what they can say in campaigns because of judicial canons that require judges to be impartial.

"I am not a politician. I am a trial judge, and that sometimes calls for me to make decisions that make some citizens angry," Kitchens said.

"I know how to be firm, and I know how to be fair," Perkins said.

"Justice and mercy will receive due consideration in my decisions as your circuit court judge."

Kitchens graduated from Mississippi State University with a bachelor's degree. He received his law degree from Mississippi College.

Perkins also graduated from MSU and MC's law school.

A circuit judge's annual salary is \$104,170.

Kitchens has the backing of more financial donors than Perkins, according to campaign finance reports filed with the Mississippi secretary of state.

In his re-election bid for a second four-year term, Kitchens' campaign has received more than \$36,690 in donations through Oct. 28. Among his reported donors are the Mississippi Hospital Association PAC (\$250), the Starkville Area Physicians PAC (\$600) and several attorneys.

Perkins' campaign has received more than \$7,800, according to his report. Among his

supporters are Tupelo attorney Jim Waide (\$500), who represents Edmonds, and the law firm of House Judiciary 'A' Committee Chairman Ed Blackmon, D-Canton (\$500).

The 16th Circuit Court's two white judges and the black challenger are running for the district's two newly separated posts rather than together in the same herd like before. The old balloting method had the top two vote-getters being elected. Howard is on the ballot alone for District 16's Place Two while Kitchens and Perkins are running for Place One.

This new election post method is being challenged in a federal lawsuit alleging it discriminates against blacks in the 16th Circuit Court District and 14 other Mississippi judicial districts.

Blacks who filed the suit withdrew their request last week for a federal judge to prevent the state from using the new alignments in Tuesday's judicial elections. They backed off after the Justice Department confirmed it had determined the new election method doesn't impair blacks' voting rights.

However, the litigation will continue and focus on allegations that three circuit court districts - including the Golden Triangle's 16th District - especially dilute blacks' chances of being elected to judgeships.

Kitchens and Perkins said they don't have much insight into this voting rights dispute.

"I know that (the federal judges) will do their best to reach a just decision," Kitchens said.

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