

## **Justice, California State Court of Appeal; District 3**

**M. Kathleen Butz**  
**Harry Hull, JR.**  
**George Nicholson**

### **M. Kathleen Butz: Recommend**

**Judicial Index Average: 8**

**Activist - Constructionist Rating: Activist 3; Constructionist 7**

**Qualifications Rating: 8**

### **Background**

60 years old

Lives in Auburn

Married with one son, six stepchildren, and 14 grandchildren

### **Qualifications**

2003 – 2010 – Associate Justice, Court of Appeal, Third Appellate District (7)

1997 – 2003 – Nevada County Superior Court Judge (5)

2001 – 2002 – Presiding Judge, Nevada County

1982 – 1996 – Private Law Practice in Nevada City (8)

Has authored over 850 majority opinions and has participated in 1700 opinions for Court of Appeal

JD, UC Davis School of Law, 1981 (8)

Bachelor's, UC Davis, 1972 (8)

### **Judicial Philosophy**

To decide cases fairly and without bias (7)

To faithfully follow the laws and the Constitution of the United States and the State of California (8)

To treat everyone before the court with respect (7)

Elevated to associate justice in Court of Appeal by Gray Davis in 2003 (1)

In the 2008 case, *Dyer v. Department of Motor Vehicles*, Butz's Appeals Court weakened a ban on using unmarked cars to issue traffic citations for nearly 85 years. Paul Dyer was stopped by an unmarked police car for driving under the influence. Dyer sued. In her ruling, Butz cited a 1991 decision to eliminate clandestine methods

of traffic enforcement designed to augment local revenues through exorbitant fines. The chief goal of speed trap legislation (is) to restrict clandestine enforcement of the speed laws by officers not clearly identified as law enforcement personnel. The offense of driving under the influence does not involve the speed of a vehicle as defined in section 40805. (10)

In August 2010, the Third District Court of Appeal revived a Christian youth pastor's suit against a Placer County Shopping Mall that had him arrested when he declined to stop talking about his faith with three women. The court ruled that the shopping mall's rules prohibiting peaceful, consensual, spontaneous conversations between strangers in mall common areas about topics not related to the mall its tenants, or their proposed activities were unconstitutional. Butz concurred on this opinion (10)

In a 2005 case, *Regan v. Price*, Butz ruled that a judicial officer accused of assaulting and battering a litigant does not have immunity from liability. "A judge's robe is not a king's crown. (Judicial immunity) was never intended to protect acts of thuggery against litigants merely because the assailant happens to be a judge." (10)

Endorsed by:

John McGuinness, Sheriff, Sacramento County (7)  
20 County District Attorneys (7)  
18 Presiding Judges of the Superior Courts

**Harry Hull, Jr.: Do not recommend**

**Judicial Index Average: 6**

**Activist - Constructionist Rating: Activist 6; Constructionist 4**

**Qualifications Rating: 9**

## **Background**

64 years old

## **Qualifications**

Rated "Well Qualified" by the State's Bar Commission on Judicial Nominees Evaluation in 1998 (8)

1998 – 2010 – Associate Justice, California Court of Appeal (12)

1995 – 1998 – Sacramento County Superior Court Judge (3)

1979 – 1995 – Partner, McDonough, Holland, and Allen (10)

1976 – 1979 – Assistant, United States Attorney, Sacramento

1972 – 1976 – Captain, United States Air Force Judge Advocate General Corps

JD, University of Illinois College of Law, 1972 (8)

Bachelor's, University of Illinois, 1969 (8)

## **Judicial Philosophy**

To always remember that it is the role of the judiciary to apply the law made by the other two branches of government, not to make law (8)

Colleagues and lawyers have described him as friendly and intelligent, with a broad knowledge of both criminal and civil law (8)

To write legal opinions that simply and clearly explains the rulings of the court (7)

Appointed by Pete Wilson in 1997 to California Court of Appeal (2)

Appointed by Pete Wilson in 1995 to Sacramento County Superior Court (2)

In 2007, ruled that domestic partners are entitled to the same tax breaks as married couples when they transfer ownership of property from one to another. Rules that provisions of Proposition 13 that can allow significant increases in taxes when a home or property changes hands don't apply to gay and senior couples that register as domestic partners. "The exclusion for registered domestic partners is not palpably arbitrary and is supported by a rational basis", Presiding Judge Arthur Scotland wrote. Decision was supported by Justice Hull in a 3-2 decision. (1)

In September 2010, Justice Hull upheld a preliminary injunction barring the Shasta Unified School District from enforcing mandatory random drug testing of non-athletes. Found that students' protected privacy interests were affected by "testing the urine sample and by requiring the students' parent to disclose any medications the student is taking" (3)

Endorsed by:

John McGuinness, Sheriff, Sacramento County (7)

20 Current District Attorneys (7)

18 Presiding Judges of the Superior Courts

Mike Reynolds, Chief Proponent, Proposition 184, Three Strikes Initiative (9)

## **George Nicholson: Recommend**

**Judicial Index Average: 9**

**Activist - Constructionist Rating: Activist 2; Constructionist 8**

**Qualifications Rating: 9**

## **Background**

69 years old

Married for 51 years with two children

## **Qualifications**

1990 – Present – Associate Justice, California Court of Appeal (20)  
1989 – 1990 – Judge, Superior Court, County of Sacramento (2)  
1987 – 1989 – Judge, Sacramento Municipal Court (2)  
Senior Assistant Attorney General, California Department of Justice, Sacramento  
Executive Director, California District Attorneys' Association, Sacramento  
Senior Trial Deputy District Attorney, Alameda County District

Has authored more than 2700 appellate opinions; has joined in more than 5300 other opinions authored by judicial colleagues

Is technologically savvy, and has played an active role in modernizing the state appellate court's computer operations

JD, University of California, Hastings College of Law (9)  
BA, Political Science, California State University, Hayward (7)

### **Judicial Philosophy**

Was the Republican nominee for California Attorney General in 1982 (8)

Author, Proposition 8, Victims' Bill of Rights, Adopted by voters in 1982; gave crime victims constitutional rights. Nicholson helped to defend this law in the courts (9)

Received a Pioneer Award in 2007 for his lifetime efforts on behalf of crime victims (9)

Appellate Justices are bound by federal and state Constitutions, and must follow the law as adopted by the legislature, and voters by initiatives (8)

Appellate Courts should be open and accessible to the public (7)

Appeals must be concluded in a timely fashion; justice delayed is justice denied (7)

Believes judges must not rewrite legislation to satisfy their, rather than the Legislature's sense of balance and order (8)

Believes judges should interpret and not make law; making law is up to the state legislature and the governor, or to the people through the initiative process, not judges (8)

Appointed to Sacramento Municipal Court in 1987 by George Deukmejian (6)

Appointed to Court of Appeal in 1990 by George Deukmejian (6)

Has been described as the anti-(Rose) Bird (9)

Was active in the 1986 campaign to oust liberal former Chief Justice Rose Bird (10)

Cares deeply about victims' rights and putting criminals in jail (8)

“Judges must accept primary responsibility for reaching out to the public and they must recognize they are effective communicators and educators when they apply themselves to the task.” As a result, his court conducts an outreach program by which court proceedings are conducted before hundreds of high school students throughout the Third Appellate District. (7)

One of his judicial heroes is Associate Supreme Court Justice Benjamin Cardozo of the United States Supreme Court (7)

Intends to do his part to help the budget crisis by helping the court deal responsibly with the current tough economic times while maintaining full uninterrupted court services to the citizens of the Third Appellate District (8)

Intends to promote improved cooperation between the three branches of government to encourage their effective, shared use of technology in criminal, civil, and administrative justice, and to facilitate citizen access to the judiciary (7)

Intends to continue encouraging the California Center for Judicial Education and Research to establish a permanent crime victims' judicial evaluation curriculum for trial judges, appellate justices and court administrators at all levels (8)

Will decide every case fairly, impartially, in a timely manner and with fealty to the United States Constitution, the California Constitution, and to legislative enactments, whether adopted by the Legislature or adopted by the people through the initiative (8)

Belonged to the Ornamental Iron Workers Union in the early 1960s (1)

Has contributed to John Doolittle (R-CA) for Congress three times. Doolittle was a staunch conservative (9)

Says Tani Cantil – Sakauye is “a great judge and a very able administrator” whose experience would allow her to “hit the ground running” (6)

Wrote an article for Human Events (“Leading Conservative Media since 1944”) titled “Kindred Spirits, Humble Heroes: Branch Rickey and William Wilberforce” in March 2007. The article commended Rickey and Wilberforce both for their character and their role in fighting racism and slavery. (9)

In *People v. Bogle*, a gardener who set his employer's house on fire-killing them both – was convicted after the jury discovered during deliberations that contrary to the defendant's claims, one of his keys opened a safe that contained the employer's

valuables. Rejecting the defendant's claim of jury misconduct, Nicholson ruled that the jury had not considered "new evidence", but simply "reexamined the evidence in a slightly different context." The California Supreme Court seemed to agree, denying review. (9)

In *California Kiwi Fruit Commission v. Moss*, Nicholson agreed with central valley fruit growers that a state program which forces them and their competitors to contribute to a statewide fruit promotion campaign unconstitutionally infringes on their First Amendment Rights. (10)

Has served on the National Association of Faith and Justice (NAFJ) to promote the value of inclusion of faith in addressing the prevention, consequences, and resolutions of crime with emphasis upon its impact on African Americans and other people of color in our society (8)