COLORADO

Office of Judicial Performance Evaluation

Judicial Branch

The Honorable Brian D. Boatright
2017 Judicial Performance Survey Report
Appellate Court

Conducted by:

MARKET DECISIONS RESEARCH
75 Washington Ave. Ste. 2C
Portland, ME 04101
www.marketdecisions.com

Contents

Summary of Results

For Justice Brian D. Boatright, 44 qualified survey respondents submitted surveys. Of those who responded, 31 agreed they had worked with Justice Boatright enough to evaluate his performance. This report reflects these 31 responses.

Respondents rated judges on various questions using an A to F for fail scale, in which the grades were then converted to the following numerical scores: A= 4, B=3, C=2, D=1 and Fail=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Overall Score

Figure 1

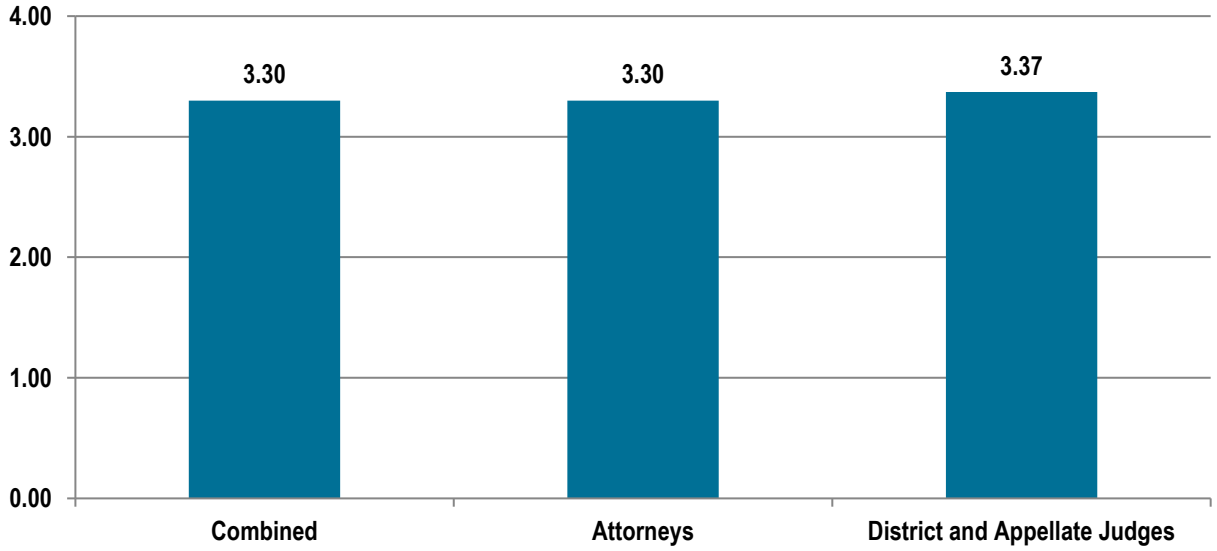


Table 1

Justice Brian D. Boatright Overall Scores			
	Combined	Attorneys	District and Appellate Judges
Overall Grade	**3.30**	**3.3**	**3.37**

Retention Scores

Figure 2

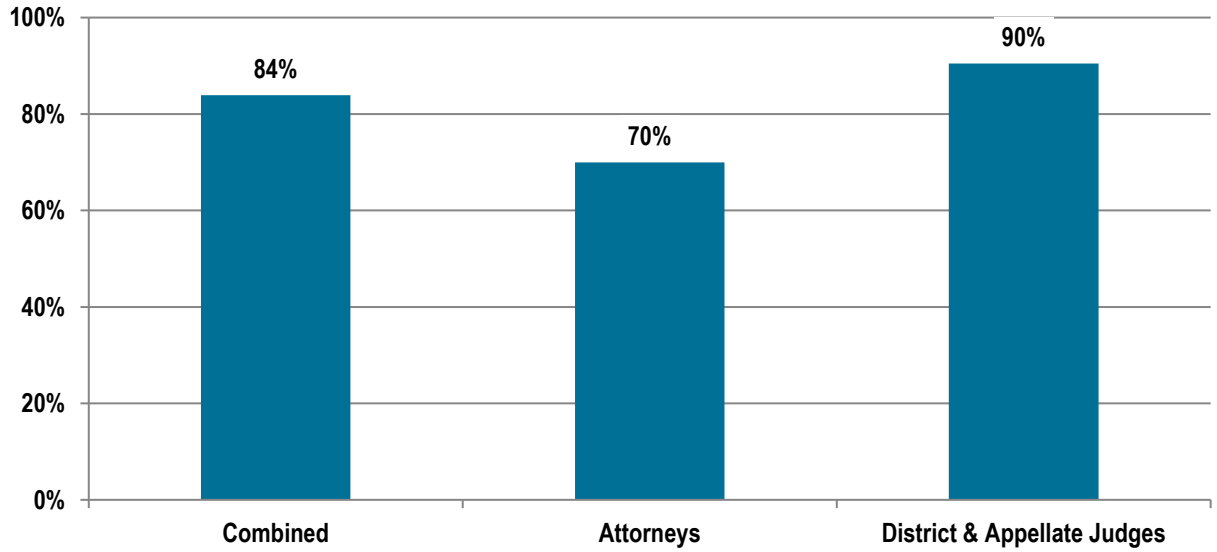


Table 2

Justice Brian D. Boatright Overall Retention Scores			
	Combined	Attorneys	District & Appellate Judges
% Recommending Retention	84%	70%	90%

Individual Category Scores

Table 3

Justice Brian D. Boatright Overall Category Scores		
Area	**Attorneys**	**District and Appellate Judges**
General	**3.26**	**3.37**
Writing	**3.33**	**N/A**

Respondent Characteristics

Table 4: Response Rates

Group	Total Sent	Undeliverable or Not Applicable*	Complete	Response Rate**	% Without sufficient knowledge***
Attorneys	67	0	18	27%	44%
District and Appellate Judges	307	0	26	8%	19%

*Undeliverable or Not Applicable surveys are those that were returned as undeliverable, the person no longer works at the address provided, or the respondent is deceased.

** Response rates are calculated by adding the number of completed responses to the number of undeliverable responses and dividing the results by the total invitations sent.

***The percent without sufficient knowledge are those that said they had insufficient experience to evaluate the judge or justice.

Survey of Attorneys

Methodology and How to Read Results

For Justice Boatright, 18 qualified survey respondents submitted surveys. Of those who responded, 10 agreed they had worked with Justice Boatright enough to evaluate his performance. This report reflects these 10 responses. The survey results are divided into two sections: General Evaluation and Writing.

The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "Appellate Judges" on the charts.

a. Response rates

During the 2016-2017 administration, a total of 23,267 survey invitations were sent to 5,865 attorneys inviting them to evaluate judges and justices eligible to receive interim evaluations in 2017. On average, each attorney was asked to evaluate 3 judges. 4,676 surveys were completed with an additional 2,022 responses where the attorneys indicated that they did not have enough experience with the judge to be comfortable evaluating him or her. The response rate for the survey was 29% and the survey completion rate (the number of those familiar enough to evaluate the judge divided by the total number of attorney responses including those indicating they did not have sufficient familiarity to evaluate the judge) was 60%.

b. Methodology

The 2016 attorney survey was conducted online beginning on September 16, 2016. Attorneys were first mailed a pre-notification letter sent on September 16, 2015 informing them about the survey and providing a link and login information to access the survey online. Next, a series of three email invitations were sent on September 27th, October 12th, and November 1st.

To further increase response rates, an additional cycle of data collection took place in January and February 2017. Invitations were sent to attorneys who had appeared before judges standing for retention in the 3rd and 4th quarters of 2016. A pre-notification letter was sent to these attorneys on January 31st, 2017 and followed up by emailed invitations sent on February 7th, February 16th and February 27th. Additional invitations were sent out on request throughout data collection. All online surveys were closed and mail returns were cut off on March 2nd, 2017.

c. Questions:

Respondents evaluated judges on 6 aspects of judicial performance using a grade scale of A, B, C, D, or F. These grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0. Those that indicated that they were familiar with the Justice's written opinions were asked to rate the judge in an additional six areas related to the Justice's writing skills. In a final question, respondents were asked to indicate how strongly they would recommend that the judge or justice be retained or not retained in office. For this evaluation cycle, the "Don't know enough to make a recommendation" response category was excluded from the retention question.

d. Analysis:

Letter grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0 for analysis. The overall score is calculated by averaging the responses to all questions answered. This score will have the same numerical range as the individual questions from zero to four.

The overall average will be reported for each judge along with the average scores for the judge's peers. In addition, the report will include the distribution of responses for each question. That is, the percentage of attorneys that assigned a rating of A, B, C, D, and F.

e. Comments:

Respondents were also asked what they considered to be the judge or justice's strengths and weaknesses. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released.

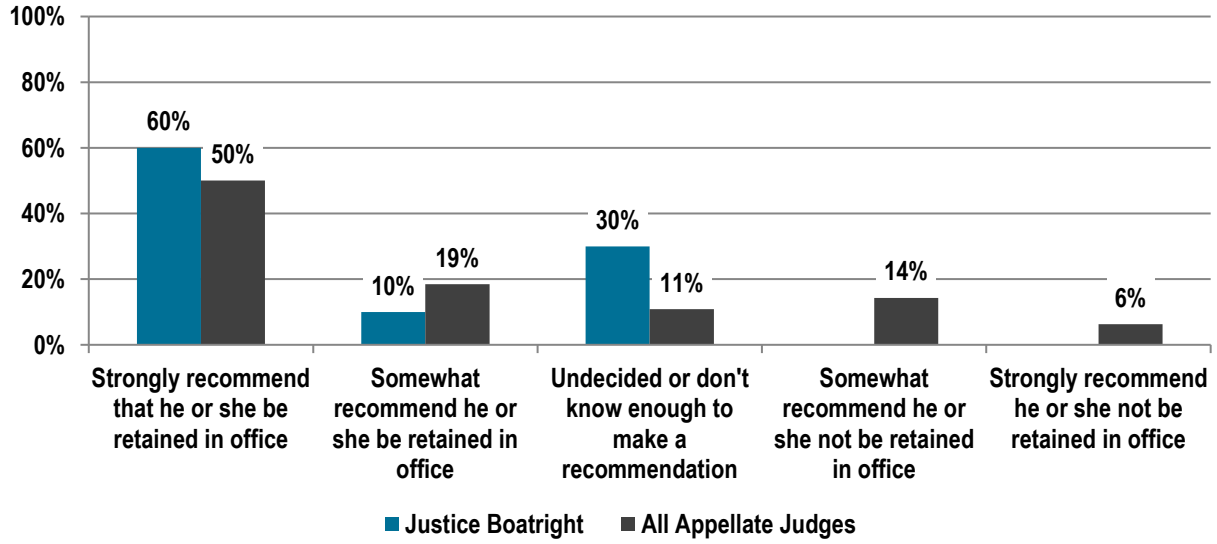
Retention

Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Justice Boatright be retained in office, or not be retained in office?

Table 5

Justice Brian D. Boatright	
Total Retain	70%
Neither	30%
Total Not Retain	0%

Figure 3



General Evaluation

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade Justice Boatright on the following. If, for a specific question you feel that you do not have enough information to grade the judge, please check DK/NA for Don't Know/Not Applicable.

Figure 4

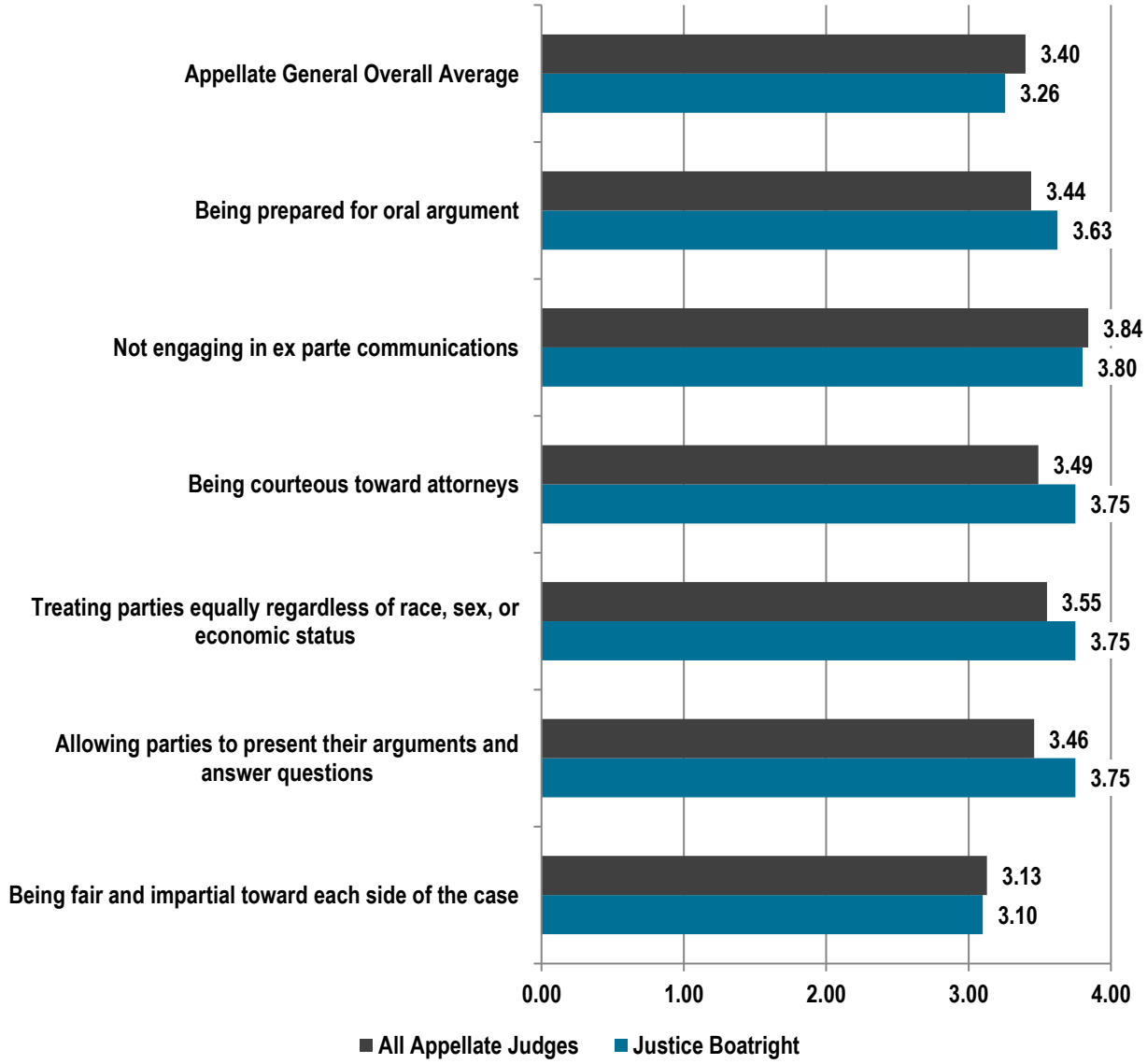


Table 6

Appellate General								
Justice Brian D. Boatright Number of Responses: 10	A	B	C	D	Fail	DK/NA	Overall Average	All Appellate Judges
Being fair and impartial toward each side of the case	50%	20%	20%	10%	--	--	3.10	3.13
Allowing parties to present their arguments and answer questions	60%	20%	--	--	--	20%	3.75	3.46
Treating parties equally regardless of race, sex, or economic status	60%	20%	--	--	--	20%	3.75	3.55
Being courteous toward attorneys	60%	20%	--	--	--	20%	3.75	3.49
Not engaging in ex parte communications	40%	10%	--	--	--	50%	3.80	3.84
Being prepared for oral argument	50%	30%	--	--	--	20%	3.63	3.44
Appellate General Overall Average							3.26	3.40

Writing

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade Justice Boatright on the following. If, for a specific question you feel that you do not have enough information to grade the judge, please check DK/NA for Don't Know/Not Applicable.

Figure 5

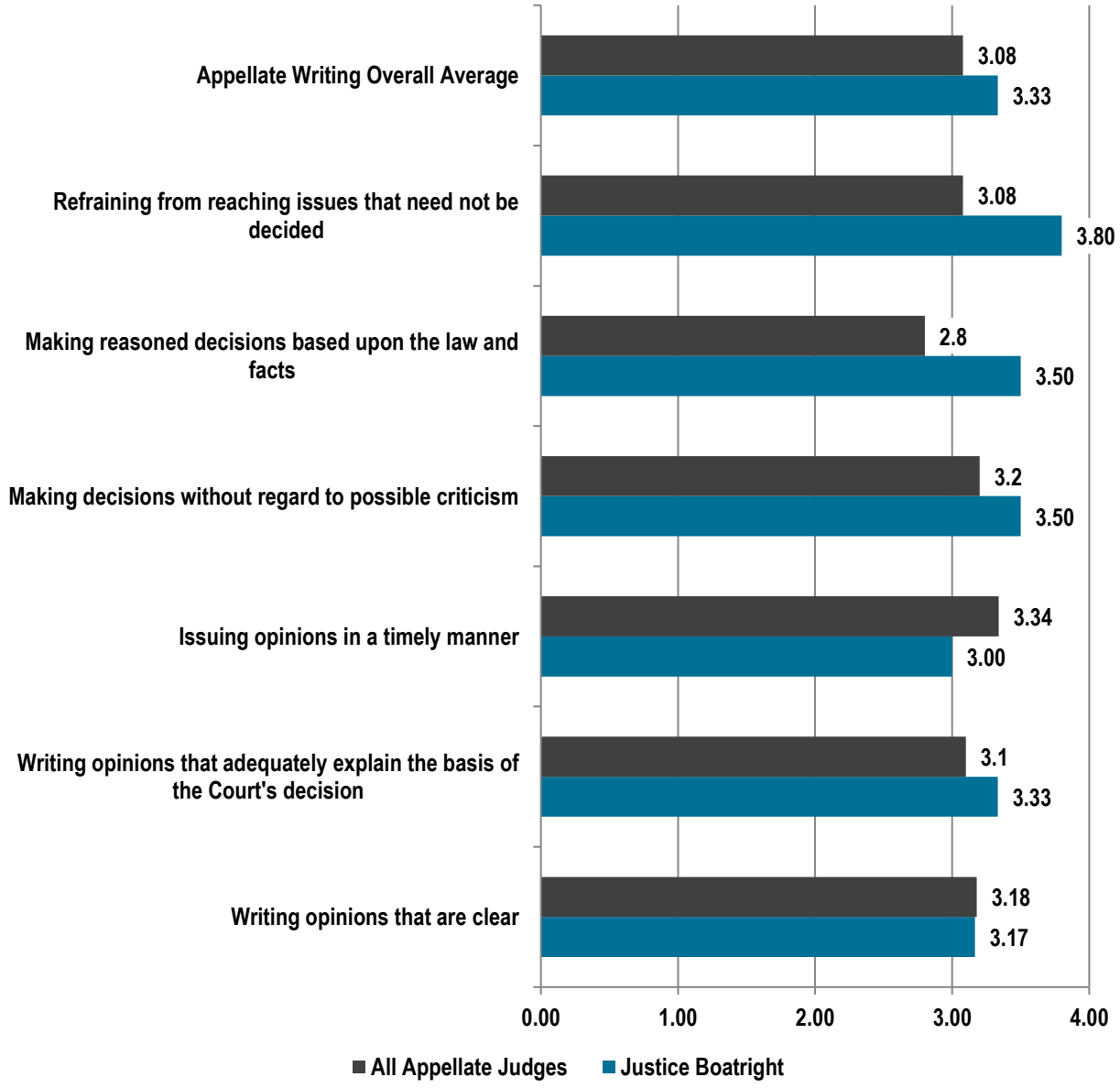


Table 7

Appellate Writing								
Justice Brian D. Boatright Number of Responses: 6	A	B	C	D	Fail	DK/NA	Overall Average	All Appellate Judges
Writing opinions that are clear	50%	17%	33%	--	--	--	3.17	3.18
Writing opinions that adequately explain the basis of the Court's decision	50%	33%	17%	--	--	--	3.33	3.1
Issuing opinions in a timely manner	33%	17%	33%	--	--	17%	3.00	3.34
Making decisions without regard to possible criticism	50%	50%	--	--	--	--	3.50	3.2
Making reasoned decisions based upon the law and facts	50%	50%	--	--	--	--	3.50	2.8
Refraining from reaching issues that need not be decided	67%	17%	--	--	--	17%	3.80	3.08
Appellate Writing Overall Average							3.33	3.08

Survey of District and Appellate Judges

Methodology and How to Read Results

For Justice Boatright, 26 qualified survey respondents submitted surveys. Of those who responded, 21 agreed they had worked with Justice Boatright enough to evaluate his performance. This report reflects these 21 responses.

a. Response rates

For the inter-appellate evaluation, invitations were sent via email to all 28 Supreme Court justices and Court of Appeals judges. Judges and justices not receiving interim evaluations were invited to evaluate all their appellate peers being evaluated this interim period. Appellate Judges and Justices receiving 2017 interim evaluations were invited to evaluate their fellow judges, but not themselves. Of these, 23 responded and 21 completed the survey. The response rate was 82% and the completion rate was 91%.

District judges were invited to evaluate their peers receiving 2017 interim evaluations on the Court of Appeals or Supreme Court via email. For this survey all district judges were sent invitations to evaluate the 12 Court of Appeals judges or Supreme Court justices being reviewed. A total of 3,324 survey invitations were sent and 126 responded and all completed the survey. The overall response rate was 4% and the completion rate was 100%.

b. Methodology

Both District Judges and fellow members of the Supreme Court or Court of Appeals were asked to evaluate the appellate judges and justices being review in 2017.

The evaluation of appellate judges and justices being reviewed by their peers in the appellate courts began with an email invitation sent on March 14th.

The evaluation of appellate judges and justices by their peers in the district courts began with an email invitation sent on March 14th.

c. Questions

Both groups of judges providing appellate evaluations answered the same questions. The survey consisted of a series of 9 questions where the respondent was asked to rate the judges performance with an A through F letter grade. They were then asked how strongly they do or do not recommend the judge or justice for retention and given an opportunity to provide any written comments.

d. Analysis

Letter grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0 for analysis. The overall score is calculated by averaging the responses to all questions answered. This score will have the same numerical range as the individual questions from zero to four.

The overall average will be reported for each judge along with the average scores for the judge's peers. In addition, the report will include the distribution of responses for each question. That is, the percentage of attorneys that assigned a rating of A, B, C, D, and F.

e. Comments

Respondents were given the option to leave supporting comments in a box next to where they graded each judge. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released.

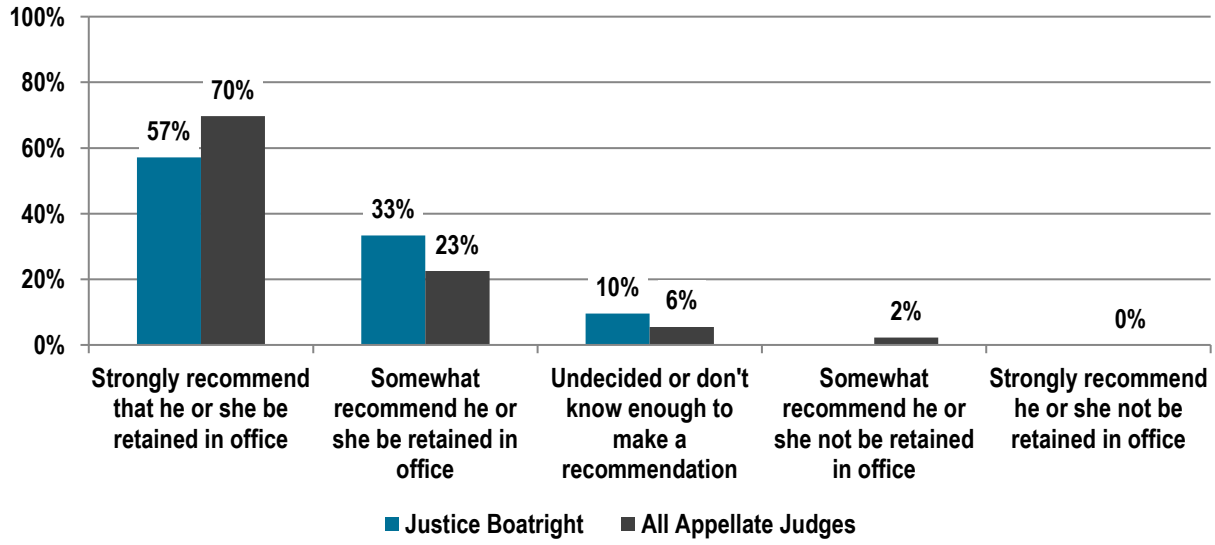
Retention

Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Justice Boatright be retained in office, or not be retained in office?

Table 8

Justice Brian D. Boatright	
Total Retain	90%
Neither	10%
Total Not Retain	0%

Figure 6



Individual Questions

Using a grade scale, where "A" is excellent along with B, C, D, or F for fail, please grade the following appellate judges on each aspect by selecting the appropriate letter grade. If you feel that you don't have enough information about a judge to mark a specific grade, please select "No Grade".

Figure 7

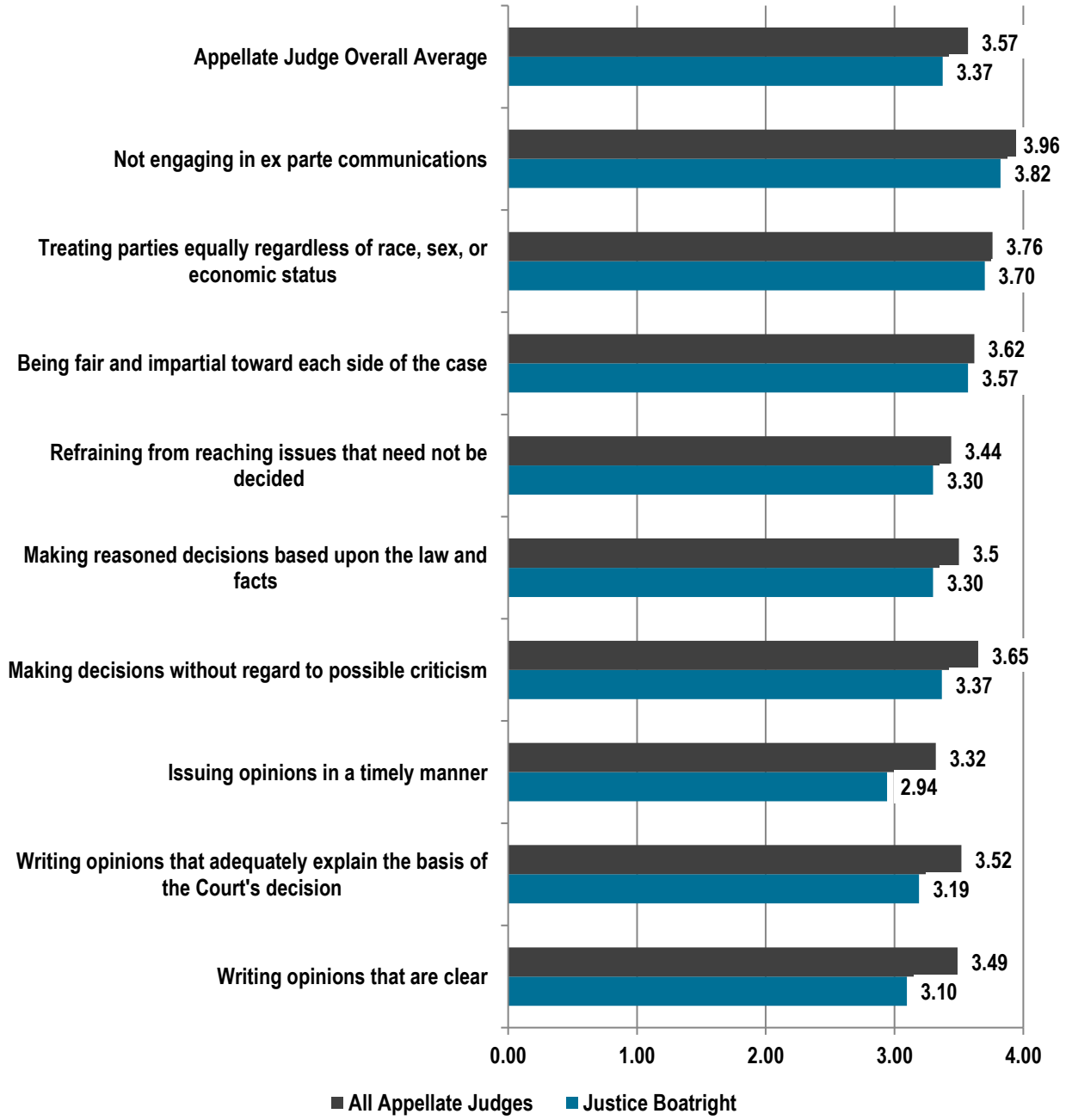


Table 9

Appellate Individual Questions								
Justice Brian D. Boatright Number of Responses: 21	A	B	C	D	Fail	DK/NA	Overall Average	All Appellate Judges
Writing opinions that are clear	38%	33%	29%	--	--	--	3.10	3.49
Writing opinions that adequately explain the basis of the Court's decision	48%	24%	29%	--	--	--	3.19	3.52
Issuing opinions in a timely manner	24%	38%	10%	10%	--	19%	2.94	3.32
Making decisions without regard to possible criticism	43%	38%	10%	--	--	10%	3.37	3.65
Making reasoned decisions based upon the law and facts	43%	38%	14%	--	--	5%	3.30	3.5
Refraining from reaching issues that need not be decided	48%	33%	10%	5%	--	5%	3.30	3.44
Being fair and impartial toward each side of the case	57%	43%	--	--	--	--	3.57	3.62
Treating parties equally regardless of race, sex, or economic status	71%	19%	5%	--	--	5%	3.70	3.76
Not engaging in ex parte communications	71%	5%	5%	--	--	19%	3.82	3.96
Appellate Judge Overall Average							3.37	3.57