

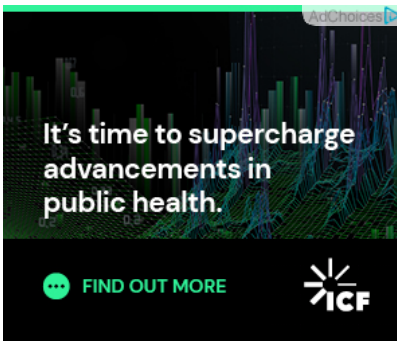
Ad war heats up Louisiana Supreme Court race with a week to go



Supreme Court candidates Will Crain (left) and Hans Liljeberg (right)
Provided photos

BY JOHN SIMERMAN | STAFF WRITER
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A bitter ad war has broken out in the race for a seat on the Louisiana Supreme Court, centered on the case of a man found guilty of rape and human trafficking whose conviction was vacated this year in a decision written by candidate Hans Liljeberg, an appeals court judge in Jefferson Parish.



The case of Willard Anthony, identified in fleeting fine print, is featured in an independent attack ad that has blanketed local airwaves in recent days. It paints a ghastly picture of Liljeberg's judgment from the bench, suggesting that, in Anthony's case, only the Louisiana Supreme Court saved the public from danger.

Liljeberg's campaign responded with a TV ad of its own, wheeling out three local heavy hitters in law enforcement — Jefferson Parish District Attorney Paul Connick, Jefferson Parish Sheriff Joe Lopinto and Orleans Parish Sheriff Marlin Gusman — to vouch for Liljeberg and slam the ad as false.

The campaign crossfire comes with a week to go in the race between Liljeberg and Will Crain, a judge on the 1st Circuit Court of Appeal. Both men are Republicans seeking an open seat on the state's high court. The runoff is Saturday.

The ad against Liljeberg was funded by the Republican State Leadership Committee, a Washington, D.C.-based group whose principals, as listed in state filings, did not return messages .

Liljeberg made a "reckless decision" favoring "a monster," a deep-voiced narrator intones in the attack ad. The outcome: In June, the state Supreme Court vacated the unanimous decision by Liljeberg and two other state 5th Circuit Court of Appeal judges.

“It didn’t matter the victim was beaten, strangled and forced into a prostitution ring,” the narrator concludes. “Liljeberg still sided with the criminal. It was wrong.”

Thematically, the ad takes direct aim at Liljeberg’s primary campaign message – that the former Jefferson Parish prosecutor is the tough-on-crime candidate in the race.

A look at Anthony’s case shows that Liljeberg wasn’t alone in his view that Anthony’s conviction was marred by the testimony of a Jefferson Parish prosecutor, Thomas Block, who vouched for the credibility of two key witnesses and opined on Anthony’s guilt from the witness stand.

Prosecutors are permitted to testify only in “extraordinary” circumstances, Liljeberg noted in his opinion. Letting Block testify about whether he offered a deal to a state witness for her testimony was valid, he wrote. But Block went much further. Court records show 24th Judicial District Judge Nancy Miller let Block weigh in repeatedly on his impressions of the evidence, and of Anthony’s guilt.

That crossed the line, Liljeberg wrote. Block had “vouched for the credibility of the state witnesses and improperly commented on the defendant’s guilt, while using the prestige and dignity of his office to bolster the state’s case,” his opinion stated.

📄 Appeals court judges Will Crain, Hans Liljeberg make runoff in Louisiana Supreme Court race

That testimony, “coupled with the emphasis on Mr. Block’s position as a prosecutor ... infringed on defendant’s presumption of innocence and prevented him from receiving a fair trial.”

In June, the Supreme Court said Liljeberg got it wrong, but not because it found Block's testimony acceptable.

The high court said the appellate panel went too far in finding that the error was so bad that it was "structural," affecting the very “framework” of the trial. That would have meant Anthony’s conviction would be vacated and sent back to Jefferson Parish for a new trial without having to consider whether it was, from the jury’s perspective, “harmless error.”

Connick’s office had argued just that, saying that even if Block’s testimony had crossed the line, it didn’t affect the verdicts because other evidence of Anthony’s guilty was overwhelming.

The jury deliberated for just 46 minutes before convicting Anthony a week before Christmas in 2016.

The Supreme Court, in a one-page unsigned ruling, said it expressed “no opinion on whether the testimony of (Block) contained errors,” but that if it did, they wouldn’t be structural. Liljeberg and the rest of the appellate panel would need to decide instead if they amounted to “harmless error,” the court said.

It sent the case back to Liljeberg and fellow 5th Circuit judges Fredericka Homberg Wicker and Stephen Windhorst. Five months later, the panel has yet to issue a new decision.

In any case, Anthony wouldn't have gotten out of prison based on the original ruling by the appeals panel, barring a decision by Connick's office to forgo a retrial. At 37, Anthony remains at the state penitentiary at Angola. He is serving a life prison term on two counts of aggravated rape, along with sentences of 10 to 20 years on five other felony charges.

Anthony was convicted of raping and beating a girl after drawing her into his stable of prostitutes and shuttling her from Florida to New Orleans. She tried to escape with a customer outside a hotel in Jefferson Parish, but the victim said Anthony pulled up and pointed a gun, so she jumped out and ran.

She testified that Anthony beat her with a belt in the hotel parking lot, "at one point strangling her, and she lost consciousness." Anthony continued the abuse when they got back to the hotel room, she said, pistol-whipping her and forcing the other girls to beat her. Then he directed others to go to Walmart to buy her makeup so she could keep working.

While they were gone, Anthony raped the girl, who is identified only as "C.W." in court papers, and inserted his gun in her vagina, according to authorities.

Letty Di Giulio, Anthony's attorney, said it was clear that prosecutors went too far by using one of their own as a key witness.

"It's Constitutional Law 101, and the error was obvious to the court, as it should have been," Di Giulio said. "The state has the burden of showing an error is harmless, and it just isn't possible to do so in this case, which is likely part of the reason the 5th Circuit didn't even attempt to."

Di Giulio noted that the appeals court only gave Anthony "the opportunity to have a new, fair trial where a jury decides his guilt based on the actual evidence and not the prosecutor's personal assessment of the evidence."

Ron Nabonne, a political consultant working for Liljeberg, said the campaign decided to address the attack ad head-on, calling it "absolutely false and misleading,"

Enter Lopinto, Connick and Gusman.

Liljeberg is "fair, impartial and committed to keeping us safe," Lopinto says in the rebuttal ad. "The case cited was never reversed, and the defendant referred to in this spot was never released. He's still in our state penitentiary at Angola."

While his campaign didn't produce it, nor is his name mentioned in it, Crain defended the independent attack ad against his opponent as a truthful account of the Anthony case.

"I do think it was fair," Crain said, while noting the "horrible" facts in the case.

"What I was more interested in reading it was the legal analysis, and quite frankly ... his analysis of a structural defect was wrong," Crain added.

Crain declined to comment on what Liljeberg and the rest of the 5th Circuit panel should do now with Anthony's case, but he said Liljeberg "was wrong, and the only way it got fixed was for the Supreme Court to do it."

Crain also noted that, for the Supreme Court to vacate the ruling, "Connick had to say, 'Liljeberg, you're wrong.'"

Indeed, Connick's office did just that in March, in a 16-page writ application to the Supreme Court.

Less than nine months later, Connick offered a more positive assessment on TV, describing Liljeberg as "the right person for our Supreme Court."

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