



# Judge Michael Warren Commentary about Threats to Judicial Independence

JULY 24, 2020 BY [HON. MICHAEL WARREN](#) [LEAVE A COMMENT](#)

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Recent polls have shown a dismaying ignorance of civics and American history which is coming home to roost. Less than half of the people can identify the three branches of government: the legislative, the executive, and the judicial. This might explain the vitriol, death threats, and violence that are spewing at our judicial officers.

As Alexander Hamilton explained in the Federalist Papers, of the three branches, the judicial has always been considered the least dangerous. It does not set policy. It can never take the initiative – it only resolves cases and controversies that are brought before the court. It is bound by the federal and State Constitutions ratified by the people as well as the law made by the legislative branch and enforced by the executive branch. The judiciary has awesome power, but it is completely hemmed in by the political branches. To do its job correctly, it is purposefully intended to be insulated from the passions of the day via life tenure (in the federal government) or infrequent elections (in most States).



Hon. Michael Warren

Which is a long way of saying, judges should not curry favor with the public. Justice is not adjudicated by taking opinion polls. Protests, tweets, Facebook posts, parades, and threats should not sway Judges. We render justice by judge and jury, not mob. We make decisions through proven facts and governing law. Pressure by State and federal elected officials pandering to score quick political points must be ignored. To succumb to these outside pressures would make a mockery of justice.

There are many reasons why the independence of the judiciary and legal proceedings are indispensable and should be supported. Here are three:

**Rule of Law:** Samuel Adams explained that the “first principles of natural law and justice” include that government “has no right to absolute arbitrary power over the lives and fortunes of the people . . . but it is bound to see that Justice is dispensed, and that the rights of the subjects be decided, by promulgated, standing and known laws.” Judges are the guardians of the Constitution and the rule of law. Judges take an oath to affirm the law, not erase it to be popular.

**Justice:** Court proceedings adhere to due process by giving notice, requiring evidence, and coming to decisions through an impartial decision-maker. All are essential to achieving justice. This takes time and profound deliberation. Two word slogans and tweets are cathartic – but

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deadly. Imagine being accused of murder – would you rather face an impartial judge and a jury of your peers, or leave it to Twitter?

**Truth:** Cherry picking a single fact or conclusion from a complicated legal proceeding is always incomplete and usually paints a biased picture. Mainstream and social media feasts on controversy to push agendas, increase clicks, and sell advertisements. Social media is almost by definition inaccurate and often toxic. The last refuge for finding the truth? The courtroom. In fact, that is the whole purpose of the court system – to find the truth.

Judging is often difficult, and at times involves matters of discretion sorting out competing claims and considerations. Like any human institution, no judge is infallible. Hence the need for appellate courts and tenure commissions. Most states elect our judges. If mistakes are made, higher courts, tenure commissions, or the ballot box should address them. Only by affirming judicial independence can we hope to maintain the rule of law, ensure justice, and find the truth.

**Hon. Michael Warren is an Oakland County Circuit Court Judge of over 17 years, former member of the State Board of Education, co-creator of *Patriot Week*, podcast host, and author of *America's Survival Guide*.**

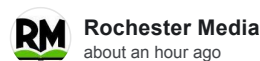
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