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[00:00:00] **Speaker 1** Edit So if something pops up or if you need a drink of water, feel free. But the way we're talking is hopefully we've got about a half hour to chat to cover a lot of ground, but we're going to take at least a big chunk of this and air it on here and now as it's. So that's where we got the cameras and everything. That way we get you plenty of time to speak your mind instead of having me speak it for you.

[00:00:22] **Speaker 2** Great.

[00:00:23] **Speaker 1** Edit down to what we think you want to say. How are we doing here? Good to go. We're on. All right. Well done, Jamal. Thanks for your time.

[00:00:30] **Speaker 2** Thank you.

[00:00:31] **Speaker 1** Let's start with your judicial philosophy. Can you explain how you approach things from the bench?

[00:00:37] **Speaker 2** You know, officially in the legal world, we say that a person with my philosophy is an originalist, meaning you go you go back to how the Constitution was written at the time with the intent of the founders when they wrote it. That's gets complicated language. I'll tell you that. My philosophy basically is, is that I approach my role as a judge with great humility. I respect the separation of powers that the legislature. Sets the laws, not the judge. I approach it with humility too, towards the litigants and appear in front of my court. I respect that they are entitled to their day in court, that they're entitled to have somebody that's going to listen to them all the way to the end of the case before I go deciding or making up my mind on things. So those are those, I think, that represent my judicial philosophy, how I view this.

[00:01:28] **Speaker 1** The Supreme Court in Wisconsin over the last decade plus has become the court of last resort, handling a lot of disputes between the administrative and the legislative branches. How do you separate out partizan politics and get down to the core of what the judges should be looking at?

[00:01:42] **Speaker 2** The same way I do it every day on the bench. You know, we ask every jury that serves when we impanel them, we swear them in. And then the first thing that happens is the judge instructs and you are not to begin discussing this case among yourselves or with anyone, and you're not to begin deciding the issues of this case until you've heard all of the evidence from both sides. You've heard the arguments of the lawyers, and I've instructed you on the law. That's what works for jurors. The same thing for judges. Everyone comes everyone comes into a courtroom, whether you're a jury or a judge with your history. And I don't have the the men and I always tell the jurors, I don't have the men in black pen, that I can erase your memories. I don't have that. So the question for you is, can you set aside your history and hear this case in an unbiased way? And that's the same thing any judge has to do. It's easy to take the politics out as long as you're willing to make that commitment.

[00:02:41] **Speaker 1** So how do you approach something like precedent? Because obviously, in federal and state cases, we've seen a lot of precedents being overturned in recent years.

[00:02:48] **Speaker 2** Well, as a circuit court judge, I respect precedent. I don't have the authority to decide. The Supreme Court got it wrong on a case. As a Supreme Court justice, we have to we have to overturn precedent only very rarely and very carefully. The whole system relies on stability, that people need to be able to predict what the law says so that lawyers can advise their clients so everyday citizens can know what's going to keep them from getting sued for their actions, what's going to keep them out of trouble with with the police, other things. So you have to have that stability. So we should have great respect for precedent. We should we should only rarely and only in extraordinary circumstances be overturning.

[00:03:32] **Speaker 1** So what do you think about the Wisconsin Supreme Court there Dropbox's decision or the redistricting decision, the most recent iteration of the court overturning those two cases?

[00:03:41] **Speaker 2** Well, you know, I read the original case from little over two years ago now. I read I read the decision in this case. I did look at some of the briefing as well. I would have sided with the dissent in the recent decision. I, I think they got it right that the legislature created two ways to vote early absentee. One is put it in the US mailbox, which is essentially a Dropbox. And the whole argument was that we're making it too hard for people who don't work regular jobs that don't work. They can't get to the polling place early to drop off their their their ballot. You can put it in a U.S. mailbox. And that's a secure, safe way to mail to mail in your ballot, or you can bring it to your clerk in person. I think I think that the majority got it wrong on that one.

[00:04:29] **Speaker 1** So how do you square your approach to precedent with the DOPs decision? It's obviously that at the federal level was a pretty big overturning a precedent.

[00:04:36] **Speaker 2** Yep, that was a very old precedent too, and it was established. The United States Supreme Court recognized that abortion isn't in the United States Constitution. There's no reference to it anywhere. Therefore, the decision belongs with the people, and that's where they return to. And it's a it can create a a messy situation, I guess, where each state is going to have their own set of rules based upon what the voters in that state want. Mississippi and California are going to have two different, very different perspectives on abortion, but that's the way the Constitution intended it. If it's not in the US Constitution, it belongs to the people and the states, and that's what they recognize. That was a bill that would've been a long time that that's that the decision was in place. But the Supreme State Supreme Court three years ago almost now considered that precedent and decided it was no longer it wasn't valid.

[00:05:35] **Speaker 1** Let's talk about the race to how to become the member of the Supreme Court. Over the years, more and more money has come into these elections. It's not new, but it is getting drastically more expensive. Do you think 2023, that race kind of reset public expectations for what a Supreme Court race looks like?

[00:05:54] **Speaker 2** I think it's unfortunate, but it did not. It's like inflation. It never goes down. It always only seems to go up. And I suspect this race is. Is going to have even more money, spent it in 2023. You know, you can only run so many TV ads before you've made your point. But this is what you've got to do. I've got to be competitive. The other side's got to be competitive. We're both working to have the resources we need to get our message out. I think I wish we could go back to a time when people would read a newspaper article. Watch a PBS story to find out about the candidates. Watch debates. But all too often, it's driven by ads and oftentimes negative ads.

[00:06:39] **Speaker 1** So in 2000, 23, general policy, which kind of set a new territory in terms of talking about personal values, saying those were separate from how she intended to rule or how she would rule in a case. Did that reset the public expectations again for what it should sound like to hear someone running for the Supreme Court?

[00:06:58] **Speaker 2** I think when she said the maps are rigged, referring to the legislative districting maps. That wasn't talking about a personal value that was stating, that was stating a legal opinion, her judgment. But well, the Judicial Ethics Commission looked at it and said nothing offensive about it. And I guess we have to live with that. It's worth noting that decisions by the Judicial Ethics Commission are driven by the majority on the Wisconsin Supreme Court. That means the majority on the Wisconsin Supreme Court would have wanted to punish one of their own, and they just didn't want to. But this isn't acceptable. Imagine this. If you went to a brewer game and you bought your $17 beer, but you sat down and the umpire comes out not in the black you're supposed to wear, but a Cardinals jersey. You're not buying another beer because this you know, this game's going to happen. The Cardinals fan in the stands might feel good about that for the moment. But what they're just witnessing is the death of baseball. Right. You know, you can always, with baseball, move on to another sport. If we've got people on the Supreme Court that can't set their personal opinions aside and are wearing the jersey of a team that our justice system doesn't survive and we don't have any other sport to go to, so to speak. It's not acceptable. And just judges and candidates for office shouldn't be talking about how they're going to rule on cases, period.

[00:08:21] **Speaker 1** So there's going to be people watching this are going to say, well, you're a former Republican. You were the attorney general of Wisconsin. As a Republican, you've run statewide. How is that different? How how do you explain to them the difference between running as a partizan versus running for office?

[00:08:35] **Speaker 2** Well, first of all, my prior roles were as a prosecutor in Waukesha DA's office. And I did I was a D.A. as a Republican in Waukesha County for that and attorney general as a Republican. Both of those roles. You don't make law. You enforce the law the way someone else made it or wrote it. And the same thing in my role as a judge. But I've set those things as I've set those partizan things aside every single day on the bench. It's worth noting my opponent also has a partizan history. She was chief legal counsel for Governor Jim Doyle. It doesn't get any more partizan than being in that role. Short of being the governor, you're the next most partizan person in that office. Both of us have partizan histories, and it's it's kind of fraudulent to suggest that just because I officially ran as a Republican, I'm the only one with that kind of a history.

[00:09:27] **Speaker 1** So there is a history of former Partizan officeholders being on the Supreme Court. Justice Prosser was there. He explained to me the difference between being a judicial conservative and a political conservative. Right. Do you agree with his definitions there?

[00:09:41] **Speaker 2** Absolutely. Being a political conservative means ascribing to certain policy values as a judicial conservative. It is. And it's a philosophy like you asked me about earlier. Any judicial conservative believes that the courts should be restrained when they're looking at a law. You interpret it the way the legislature wrote it, and you don't try to change it into some other form. The opposite is judicial activism or being a judicial liberal, where they believe that the court's role is to is to change the law into a form that they think is best. And that's the difference between between those judicial conservative and judicial liberal, but very different than the political conservative and liberal.

[00:10:24] **Speaker 1** So general policy, which received millions of dollars, the Democratic Party, Wisconsin, she said that she would recuse herself from any cases that they were direct plaintiff or involved in. You were. Both candidates in this case are going to have Partizan support. Both of the parties are heavily involved. The races are too important for the parties to step aside and be not part of it. That's the reality of the ground game. How will you approach recusal when it comes to those who have supported you, donated to you, endorsed you?

[00:10:51] **Speaker 2** Well, it's awfully hard for just as protasevich to say she'll recuse on anything that the Democratic Party's involved in. But then she stayed on the legislative redistricting maps and she came. Well, they're not directly a party. Come on. They were the clear beneficiary of that decision. I think she was putting form over substance very much there. But for it for a judicial official, at any level, your responsibility is if if you have a personal stake, you or some family member has a personal stake in the outcome of this case, you must recuse. That's unethical not to do so. Otherwise, just like a juror, when they're asked questions in the jury box can use to find out whether they can be on this case and be fair and impartial, the judge needs to search their soul and determine, can you decide this case without having any political baggage, without having your personal history or biases interfere with your ability to be fair and impartial? If you cannot do that, then you should recuse.

[00:11:53] **Speaker 1** So there are a couple of big issues that are going to be coming before the court in the future, most likely that I know you can't comment on how you would rule, but they are all issues in Act ten or voter I.D. That's also going to be a constitutional amendment on the same ballot as your election. Right. So how do you approach being able to talk about those issues when you have defended those laws in the past? Well, at the same time, possibly being sitting on the bench regarding those issues in the future?

[00:12:20] **Speaker 2** Well, I don't talk about how I rule on those issues. And frankly, Act ten was resolved in the US Supreme Court and the Seventh Circuit Court of Appeals. Even before I was attorney general, I was still in the DA's office when those issues were decided by those courts. So I've never had any direct role in anything involving Act ten. What I do ask voters is to ask themselves whether they think that if my opponent wins, can this court truly be objective? When two justices sitting on the court, both Justice Protasevich and Justice Dallen were both caught on video promising if elected, they would strike down Act. And then my opponent represented the Madison Teachers Association in the lawsuit to strike down Act ten. And she argued that it should be found unconstitutional. Can she be objective when she had a former client that that had her do that work for her? And can those other two be objective based on those promises? I can ask those questions. I'm not going to tell anybody how I'm going to rule because like I do in every case, I will read the briefs, I will assess the facts, I will look at the relevant law, I'll read all the cases, and then I'll assess what the right answer is based on the law.

[00:13:34] **Speaker 1** So in recent years, Justice Ryan Hagedorn has become a flashpoint on the court for conservatives. He was actually an issue in the primary in the last election. What is your opinion of how he's ruled from the bench and the place he has on the court?

[00:13:47] **Speaker 2** You know, what's gotten lost in all this is well over 90% of the time. Ryan Hagedorn. Justice Hagedorn has voted along with the rest of the conservative majority. There were some cases that were very high profile back in the 2020 election that he broke with with the conservative majority. And he's he's caught a lot of grief for that. Justice Hagedorn was chief legal counsel for Governor Walker back when I was attorney general. The two of us worked together all the time. I know him on a personal level, and we were able to work collaboratively and cooperatively to get good things done to make sure the state of Wisconsin had good representation in the courts. I'm I'm looking forward to having a chance to work with Justice Hagedorn on the court, for that matter. I'm looking forward to working with my old friend, Justice Jill Carroll. She was she was my director of the Office of Crime Victim Services, my executive team at the Department of Justice. And she did amazing work representing representing the interests of crime victims all over the state. No one no one could have done a better job than she did there. And I'm looking forward to reuniting and working with her.

[00:15:00] **Speaker 1** It's interesting you mention Hagedorn's old position as chief legal counsel because that is what you're referencing. Your opponent, right, also served, as you said, it was a very partizan role. How would you view Hagedorn's job in terms of setting aside his Partizan history?

[00:15:13] **Speaker 2** Well, kind of the premise of your question is that Justice Hagedorn has broken ranks with conservatives at times. There you can see that your partizan history doesn't doesn't necessarily define you on the court. Justice Prosser Also the the Assembly majority Assembly, Majority leader. Speaker Speaker reversed that. The Assembly Speaker. Certainly he was the most powerful Republican in the state at the time. And Justice Prosser, I don't I don't know of anybody that would accuse him of ever having injected politics or partizanship into his into his rulings. Clearly, if you are a person of integrity, you can set those things aside.

[00:15:55] **Speaker 1** So when it comes to the campaign, how do you keep the momentum from Republican victories last November? But that's a lot of the same group that you're you're courting for your support. They've already come out, endorsed you. How do you get them to carry over that momentum of door knocking and fundraising, doing all the things that are necessary to win an election here.

[00:16:15] **Speaker 2** By being there? I've run I've I've run a 72 county race. I have one county left that campaign in 71 counties. I've been to most counties many times over the course of almost 14 months that I've been campaigning for this because I want to I want people in Wisconsin and all that. I'm here to represent all of you, not just people in Waukesha County or not just people in Madison, but people in Taylor County and Marinette County and Kenosha County. I'm continuing to go places every single day. I have a packed schedule where I'm out meeting with voters, talking about the importance of this race. And I'm finding that people are plugged in. They haven't lost they haven't lost an ounce of the momentum from November.

[00:16:56] **Speaker 1** So one of the issues that's already become a topic in this election has to do with your time as attorney general and the rape kits and the history there of your opponents attacking on you. You've already got ads out defending your position on that. So explain your position on that and I guess set the record straight from your perspective.

[00:17:13] **Speaker 2** I I'm proud of the work, what we accomplished for survivors of sexual violence. I came from the DA's office. I spent over a decade prosecuting sensitive crimes cases. I recognized the value in getting those kids tested. So when I came to DOJ, my head of the Office of Crime Victim Services, now Justice Cross, also had been a long time front line prosecutor during the same kind of cases. We both recognize we had to do better. For 25 years, those kids had accumulated in storerooms and police departments and hospitals and nobody sent them in. We recognize we need to do that, but we also recognize we couldn't just take 6000 kits and dump them on the crime lab. They have day to day responsibilities. So we had to go forward and seek. Your funding to be able to pay for getting those kids tested. We also needed to find out where they were. There was no inventory, so we needed to go to law enforcement all around the state and have them check their inventory rooms, go to the hospitals, check their inventory rooms. We got that all together and then we had to start going through and finding all those survivors because this is evidence collected from their body, even inside their body. You cannot just go use that however you want without talking to them about it. So we did. We found those survivors. We talked to them. We got their consent to test those kits. And before my term of office as attorney general, we tested over 4000 kits. Every single kit that needed to be tested was done. In that four years, we worked a miracle. And it's a it's a scam to suggest to voters that this was anything other than that. Check with your local law enforcement. Check with the sheriffs who come forward to to tell this work. Check with groups like the Wisconsin Coalition Against Sexual Assault. And you can find or you can find the articles. They they talked about this in back in the time when I was attorney general. But what a monumental task, an accomplishment this was.

[00:19:09] **Speaker 1** Obviously, this was a huge issue in 2018. Is it frustrating that this is going to be fodder for your opponents again?

[00:19:17] **Speaker 2** What's frustrating, whenever someone is bringing up something that I consider to be a false or misleading ad, but frankly, we're ready for it. And we've got we've got sheriffs that have come forward to talk about this very issue. We've got advocates that are coming forward to talk about this very issue. And it's a great chance for me to highlight the difference between myself and my opponent, where I, I served 25 years standing in the courtroom with crime victims and arguing for justice on their behalf. I spent 25 years going to the crime scene, helping law enforcement get this case solved and take it all the way to conviction for 25 years. My opponent never did any of that, not not once. That's a profound difference in this. This bringing this up is a great opportunity because they would use these survivors of sexual violence and their concerns and justice for them as a political weapon. It's a great opportunity for me to talk about how wrong that is and to highlight my experience.

[00:20:19] **Speaker 1** One of the most common ads we see in these kind of elections has to do with when, as a former judge, someone was lenient on an offender or let them out of prison. Do you ever think of that from the bench? Is there ever because you've been running, preparing for this race for a while? How do you avoid that separation of. Well, if I'm too lenient here, this will turn up in a campaign commercial?

[00:20:39] **Speaker 2** Well, from the time I decided to run for Supreme Court, I've been in the civil division, so I haven't handled any criminal cases. But no, you can't do this. You can't put your your own personal political views or interests in in place of doing justice. I've done the right thing from the best of my judgment. I've looked at cases honestly, I've worked hard and I've done what I believe to be the right thing. You know, there's an ad right now that that my opponent's team is running on a particular case where they're saying, I let domestic abusers go free. And what they're ignoring, what they're what they don't want the public to know in that ad is that this was a United States veteran who served in combat, who came back and was struggling with PTSD and bipolar disorder and substance abuse disorder, who by the time we got to sentencing had turned things around, was And when the victim came and spoke at the sentencing hearing, she begged me, Judge, don't lock him up. He is a changed man. He has restored himself and he worked hard every day since this incident happened in our family is stronger because of this. Any judge in their right mind would have done the same thing I did that day and give him a chance on probation to show that he is truly redeemed. And he did it. He hasn't been in any trouble ever since and never was in trouble before.

[00:22:05] **Speaker 1** One of the other issues that has popped up in the legal community has to do with trans rights and the laws that are being drafted or implemented. Our trans people are protected class. Do they have any special privileges or rights when it comes to that?

[00:22:22] **Speaker 2** Under the law, they're not in a particular protected class. No. But in a courtroom, in the justice system, you don't have to be in a protected class to enjoy, to enjoy our constitutional rights. You know, I do name changes. Every Monday morning is when we hold name change hearings. And I have it's routine that I have individuals who have transitioned or are transitioning, want to change their names. I respect them for that decision and I make those name changes as a matter of routine. I've even had some cases where they've gone. On gender change operation and want to change their birth certificate. The law provides that they can do that. That's what the law provides. My personal opinions have nothing to do with that. If they meet the standards under the law, they deserve the respect of the court and they deserve to have their rights granted to them.

[00:23:17] **Speaker 1** Switching to a federal perspective, Donald Trump recently pardoned all of the January 6th people that were prosecuted. What's your opinion of those pardons?

[00:23:26] **Speaker 2** I you know, presidents have have the power to pardon people. There's some arguments about what that means. But as of the January 6th defendants, anyone who engaged in violence, anyone who assaulted a police officer used force to go into the Capitol. I'm personally I have I have some dispute with them being granted a pardon in those circumstances. I don't know the individual facts of every case. And the arguments I hear is that many of them did not engage in violence that day. That's the president's prerogative to to choose whether to pardon them or not.

[00:24:05] **Speaker 1** When it comes to the public's perception of this race. A lot of people are going to tune in. They're going to learn through this through campaign commercials at the last minute, through attack ads, negative ads. Do you think there are people that are going to vote for either you or your opponent based on 1 or 2 issues that they hold as a personal thing? Or is there do you think there are people voting on this in terms of what's best for the Supreme Court?

[00:24:26] **Speaker 2** What I'm hearing when I'm talking to voters, whether I'm at a dairy breakfast and back in June, I went to dozens of them or county fairs or you name it, a Patriot group or wherever where I live, I'm out talking to people. They want the court to be objective. They want to restore this sense of independence, this sense of integrity and objectivity on the court. That's what they're most interested in. Yes, I'm sure people have personal and personal issues that matter to them. But I've tried hard to convince people. You need to set that aside. If you want something in the law change based on your personal interests, you need to go to the legislature to change that. The court needs to enforce the law the way the legislature wrote it.

[00:25:12] **Speaker 1** One final question having to do with former Supreme Court Justice Michael Gable. He has a disciplinary process that's running through. Can you comment on his actions over the last couple of years and his role in the 2020 election?

[00:25:26] **Speaker 2** I don't I don't know. I don't know anything other than what I read in newspaper articles about the case. I don't have any access to any of the any of the complaints or the if there's any briefing in the matter, I, I couldn't comment on that. And besides, I think when I am elected on to the Supreme Court, this may rise to the level of the Supreme Court reviewing it. So it would be absolutely improper for me to start forming opinions on that. Now.

[00:25:50] **Speaker 1** You mentioned before the Judicial Ethics Commission sometimes is hesitant to reprimand their own. What goes into that process of deciding if someone else, especially someone in so high profile, actually actually done something worthy of disbarment?

[00:26:04] **Speaker 2** What should go into the process is an objective analysis of the facts and allegations and then and an objective application of the law to those facts and circumstances. And then you have to look to what's happened historically, because you can't if you in one case, you give this way out of bounds kind of reaction, either one way or the other. Compared to what's normally happened in that kind of allegation, well, then it's going to look very political. So you should try to stay consistent with what's been the typical kind of reaction from the Ethics commission over that.

[00:26:41] **Speaker 1** Do you have an opinion on Jim Troopers and the charges against him?

[00:26:45] **Speaker 2** Only my personal opinions. Those are things that might end up in front of the court. I'll say this. I am concerned that ten years ago the term lawfare wasn't part of our lexicon in America, but it is now. We talk about that. We use that term all the time to talk about things that have gone on. I'm very troubled by the seeming, this desire on the part of some to use the criminal and civil justice system as a way to either silence their political adversaries or get locked up or get them held accountable for, you know, millions of dollars in in civil damages. I'm I'm very concerned that the justice system is being abused. And I think that the courts need to start examining to what degree they're being used by people for political purposes.

[00:27:44] **Speaker 1** Judge Jim, thanks for your time.

[00:27:45] **Speaker 2** Thank you.

[00:27:47] **Speaker 1** All right. That was good. You made it feel good. Yeah, I'm good. All right.

[00:27:51] **Speaker 2** Yesterday's would have been a different story. I was like.

[00:27:55] **Speaker 1** So you want to get some room tone? All right. So if we just want to hang here for a second, we're going to get the sound of the right silverware. Always the most exciting part of the interview.