

# Preston sought judicial appointment before challenging Dance

By **MARKUS SCHMIDT AND JIM NOLAN** *Richmond Times-Dispatch* | **Posted: Tuesday, March 10, 2015 5:00 pm**

Newly minted state Sen. Rosalyn R. Dance, D-Petersburg, thinks she knows why she is facing a rare intraparty challenge from the man who only in January was elected to the House seat she previously occupied.

Dance said Del. Joseph E. Preston, an attorney from Petersburg, is angered over her refusal to support him for a judgeship that was filled in the last legislative session.

“I was twice given the option to not fill the judgeship during session and leave it open for him for a later date,” Dance said in an interview Tuesday. “But my response to the offer was a no, because I don’t do what I think is morally wrong.”

Preston announced Monday that he was challenging Dance in the June 9 Democratic primary. In a phone interview Tuesday, he said revenge isn’t his motive and that he won’t “admit or deny anything” relating to judicial aspirations or an inquiry for an appointment to the Petersburg Circuit Court.

“This has nothing to do with a judgeship,” he said. “(Dance) wants to hide her record.”

However, two Virginia lawmakers confirmed that Preston approached them earlier this year, expressing an interest in the judicial vacancy in Petersburg.

The Dance-Preston feud is just one example of the highly political process of judicial selection, both within — and between — political parties that control the Virginia General Assembly.

With some exceptions, past practice has predominantly been that the General Assembly delegation encompassed by a judicial district reach consensus on nominees to the bench, which are subsequently submitted to the House and Senate Courts of Justice Committee for review and approval.

Like many issues in the legislature, it is a process by which the wishes of the minority party are largely subject to the consent of the majority party.



## Preston-Dance

Del. Joseph E. Preston, left, is challenging state Sen. Rosalyn R. Dance, a fellow Petersburg Democrat, for her seat.

Sitting lawmakers cannot be appointed to the bench, but there is currently no law against lawmakers appointing a former member of the House or Senate — or one of their relatives — to a judicial position.

Before the 2015 legislative session began, Del. Lionell Spruill Sr., D-Chesapeake, had proposed a bill that would prohibit the General Assembly from electing relatives of a General Assembly member or a former General Assembly member for at least 24 months after a lawmaker stopped serving, but the bill was killed in a House committee.

So the delegate said it was awkward when Preston approached him seeking his support for the Petersburg bench appointment.

“He was going about it the wrong way,” said Spruill, who said he believes that Preston decided to challenge Dance “because he didn’t get a chance to be a judge.”

Dance said that Spruill asked her twice if she’d agree to back a Preston appointment, which she said she refused. Dance said she believes that Preston’s goal from the outset was to be a judge, not a delegate. “But this is not the arena to make it happen,” she said.

Sen. A. Donald McEachin, D-Henrico, also said Preston approached him interested in the open Petersburg position.

McEachin, chairman of the Senate Democratic Caucus, said that once Preston was informed that he could not be appointed directly to the post from his position as a lawmaker, he advocated for leaving the Petersburg position open, preserving the possibility that he could win support for the appointment when he is no longer a lawmaker.

The senator said that the request went no further and was not acted upon.

On the day the House confirmed judicial appointments, Preston asked to remove the name of Dennis Martin, a substitute judge from Petersburg, from the block vote. He then spoke against Martin’s nomination.

Martin was eventually confirmed by the legislature, making him Petersburg’s first black circuit court judge. Dance supported Martin’s appointment.

Preston said Tuesday that Spruill, McEachin and Dance are not being truthful.

“These guys are playing dirty politics right out of the gate; they are all trying to save Rosalyn Dance,” he said.

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## **Preston seeks Dance's state Senate seat**

Del. Joseph E. Preston, D-Petersburg, is seeking a rematch against Sen. Rosalyn Dance, D-Petersburg, in the party’s primary in June.

“I am a little disappointed, because I thought we were all Democrats. My record is clear of being honest and truthful speaks for itself. I don’t have to lie.”

Preston doubled down on his statement from Monday, in which he accused Dance of being a “Democrat in name only.”

In her nine years in the House of Delegates, Dance has voted with Republicans on many key issues and has continued to do so since beginning her tenure in the state Senate in January, Preston said.

“This is about her record,” he said in the interview. “Her record is so bad that she is trying to hide behind it. If she wants to join the GOP, then that’s what she should do, because she has voted with Republicans on issues from voting rights to health care reform and charter schools.”

Dance fired back late Monday evening, mailing out a statement that included endorsements from Virginia Democratic leaders, including Gov. Terry McAuliffe, Lt. Gov. Ralph Northam, Attorney General Mark R. Herring and McEachin.

Dance on Tuesday denied backing Republicans over Democrats.

“I don’t know what Delegate Preston is talking about,” she said. “That’s just thrown out there to confuse people; it has no substance. What is his involvement within the Democratic structure to define who is and who isn’t a Democrat?”

While Dance acknowledged having on occasion voted for bills sponsored by Republican lawmakers, she said that “on ideological issues, I always vote Democrat.”

Dance, a former mayor of Petersburg, represented the 63rd House district — which includes Petersburg as well as parts of Hopewell and the counties of Dinwiddie, Chesterfield and Prince George — from 2005 until 2014.

She successfully ran for the 16th Senate District seat vacated last summer by then-Sen. Henry L. Marsh III, who had retired after 22 years to take a position on the Virginia Alcoholic Beverage Control Board.

Preston won Dance’s House seat in a special election in January with 79 percent of the vote. On the campaign trail, he vowed to work to bring jobs and economic development to the area he represents — and to push to appoint African-Americans and women as judges in the district.

In an interview after his victory, Preston said: “We have zero judges that look like the people that come before the bench.”