

Alaska Judicial Council Recommendation

Judge Richard W. Postma, Jr. District Court, Anchorage

Judicial Council Recommendation 2010

The Alaska Judicial Council is a non-partisan citizens' commission established by the Alaska constitution. Alaskan law requires the Council to evaluate judges' performance and authorizes the Council to recommend to voters whether judges should be retained in office. The Judicial Council reviews judges' integrity, diligence, legal ability, fairness, demeanor, ability to manage their caseloads, and overall performance of their judicial responsibilities *in and out of the courtroom*.

After becoming aware of concerns about Anchorage District Court Judge Richard Postma's judicial performance, the Alaska Judicial Council conducted an independent review and met with Judge Postma to provide him with an opportunity to be heard. After that review and meeting, the Judicial Council found that Judge Postma has experienced persistent difficulty in coping with the Anchorage District Court caseload and stressful situations. Judge Postma has lacked patience, dignity, and courtesy in his communications which has contributed to constant friction between Judge Postma and other judges, court administrators, and court staff. Judge Postma has a tendency to lose his temper. Judge Postma's characterization of past events has often been inconsistent with other documented information. Judge Postma has prioritized his personal needs over his judicial responsibilities.

A different and separate state entity, the Alaska Commission on Judicial Conduct has constitutional responsibility to address problems of judicial conduct and responsibility. The Commission has found probable cause that Judge Postma violated Alaska law and Alaska's Code of Judicial Conduct by engaging in inappropriate communications with fellow judges and court staff and by willfully violating confidentiality requirements. The Commission has also found probable cause that Judge Postma's personal needs take precedence over his judicial duties and require unreasonable accommodations. An independent mental health expert retained by the Alaska Commission on Judicial Conduct has determined that Judge Postma suffers from a combination of mental health difficulties that is or may become permanent and which render him unable to fulfill the duties of his office.

The Alaska Court System, a third independent constitutional body, unsuccessfully attempted to work with Judge Postma to improve the situation. The court decreased the judge's responsibilities, placed the judge on paid administrative leave, and temporarily assigned the judge to a different venue. These efforts have not been successful in improving Judge Postma's ability to function as a judge on the Anchorage District Court.

Judges must be fair and judicial in the courtroom and in their conduct off the bench. The Alaska Judicial Council concludes that, while performing acceptably on the bench, Judge Postma demonstrated an inability to function appropriately with other judges and court staff and that he did so in a manner that seriously interfered with the performance of his judicial duties, disrupted the functioning of the Anchorage District Court, and makes him unfit to retain his office. The Judicial Council finds Judge Postma to be *Unqualified* and recommends with a 5-1 vote that the public vote "No" on his retention as a district court judge.

Summary of Survey Information

Survey respondents rated Judge Postma on the categories summarized in the table below, using 5 as the highest rating possible. The attorney rating for Judge Postma on overall performance was 3.7. Peace and probation officers gave Judge Postma a rating of 4.1. Jurors rated him 4.9 overall, and court employees gave him 3.1. No social workers, guardians ad litem or CASA volunteers rated Judge Postma. Alaska Judicial Observers rated him 2.86.

	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey	Social Workers Guardians ad Litem CASAs
Legal Ability	3.9	---	---	---	---
Impartiality	3.8	4.1	4.9	3.4	---
Integrity	3.8	4.1	---	3.2	---
Temperament	3.7	4.0	5.0	3.0	---
Diligence	3.9	4.2	---	3.2	---
Overall	3.7	4.1	4.9	3.1	---

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Rating Scale
 5.0 = Excellent
 4.0 = Good
 3.0 = Acceptable
 2.0 = Deficient
 1.0 = Poor

Recommendation: Vote "NO" on the retention of Judge Richard W. Postma, Jr.

Alaska Judicial Council Recommendation

Judge Dennis P. Cummings, District Court, Bethel

Judicial Council Recommendation

The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska constitution, evaluates judges on a number of criteria, including their legal ability, their demeanor, their diligence, their ability to manage their caseloads, and their fairness and integrity. After receiving a number of reports and comments from those who work with and appear before Bethel District Court Judge Dennis Cummings, the Judicial Council undertook an additional investigation including a review of court records and interviews with forty people. The Council reviewed a complaint issued by the Alaska Commission on Judicial Conduct that found probable cause to allege that Judge Cummings had violated several Canons of Judicial Conduct relating to ex parte contact with a state witness in a criminal trial. The Council also reviewed Judge Cummings' response to that complaint. The Council considered ratings from attorneys statewide who rated Judge Cummings "below acceptable" in the areas of Legal Ability and Temperament. Among attorneys in the Fourth Judicial District, where Judge Cummings presides, the judge received ratings that were substantially "below acceptable" on Legal Ability, impartiality, Temperament, and Overall Performance. Based on this investigation and a meeting with Judge Cummings in which he had an opportunity to respond, the Judicial Council had considerable concerns about Judge Cummings' lack of impartiality, inappropriate ex parte contact, inability to control the courtroom, inadequate legal knowledge, and lack of candor. The Judicial Council finds Judge Cummings to be *Unqualified* and recommends unanimously that the public vote "No" on his retention as a district court judge.

Judicial Council Evaluation

The Judicial Council surveyed 2,884 attorneys and 1,539 peace and probation officers, together with social workers/guardians ad litem, and child advocates, jurors, and court employees about the judges on the ballot. Respondents were asked to rate judicial performance and to submit comments. The Council reviewed court system records concerning peremptory challenges, recusals, and appellate affirmance and reversal rates; any civil or criminal litigation involving the judge; APOC and court system conflict-of-interest statements; any public disciplinary files; and whether a judge's pay was withheld for an untimely decision. The Council investigated judicial conduct in specific cases. The Council interviewed some judges, attorneys, court staff, and others, and held a statewide public hearing to obtain comments about judges.

	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey	Social Workers Guardians ad Litem CASAs
Legal Ability	2.9	---	---	---	---
Impartiality	3.2	3.8	4.2	3.8	---
Integrity	3.6	4.0	---	3.9	---
Temperament	2.9	3.7	4.4	3.3	---
Diligence	3.2	4.0	---	3.7	---
Overall	3.0	3.9	4.3	3.5	---

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Rating Scale
 5.0 = Excellent
 4.0 = Good
 3.0 = Acceptable
 2.0 = Deficient
 1.0 = Poor

Summary of Survey Information

Attorneys in Alaska rated Judge Cummings on the six categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge Cummings on overall performance was 3.0. Peace and probation officers rated Judge Cummings on five categories. They gave Judge Cummings a rating of 3.9. Jurors rated Judge Cummings 4.3 overall and court employees gave him 3.5. There were no social workers, guardians ad litem or CASA volunteers who rated Judge Cummings.

Recommendation: Vote "NO" on the retention of Judge Dennis P. Cummings

Contact the Judicial Council at 1029 W. Third Avenue, Suite 201, Anchorage, AK 99501 (telephone: (907) 279-2526) for more detailed information, or review the information on our Internet site at: www.aic.state.ak.us

Alaska Judicial Council Recommendation

Judge David S. Landry, District Court, Kenai

Judicial Council Recommendation

The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska constitution, evaluates judges on a number of criteria, including their legal ability, their demeanor, their diligence, their ability to manage their caseloads, and their fairness and integrity. After receiving a number of reports and comments from those who work with and appear before Judge Landry, the Judicial Council undertook an additional investigation including a review of court records and interviews with over forty people. The Judicial Council's vote relied only on evidence that was corroborated. Based on this investigation, the Judicial Council had considerable concerns about Judge Landry's pattern of poor judgment in a number of areas including: inappropriately delegating judicial authority by handing out blank pre-signed orders to prosecutors, which allowed them to set bail and schedule hearings without further court order; while administering the criminal court calendar, failing to monitor and ensure the timely trial of criminal cases, resulting in dismissal of at least fourteen criminal cases within a year for failure to provide a speedy trial under applicable court rules; making inappropriate sexual comments both in and out of the courtroom, which continued after receipt of warnings; and creating the appearance of favoritism and partiality in handling court cases. The Judicial Council finds Judge Landry to be **Unqualified** and recommends unanimously that the public vote "No" on his retention as a district court judge.

Judicial Council Evaluation

The Judicial Council surveyed 3,036 attorneys, 1,492 peace and probation officers, social workers/guardians ad litem, and child advocates, jurors, and court employees about the judges on the ballot. Respondents were asked to rate judicial performance and to submit comments. The Council also reviewed the ratings and observations of the Alaska Judicial Observers, independent community-based volunteers. The Council reviewed court system records concerning peremptory challenges, recusals, and appellate affirmance and reversal rates; any civil or criminal litigation involving the judge; APOC and court system conflict-of-interest statements; any disciplinary files; and whether a judge's pay was withheld for an untimely decision. The Council investigated judicial conduct in specific cases. The Council interviewed some judges, attorneys, court staff, and others. The Council held a statewide public hearing to obtain comments about judges.

	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey	Social Workers Guardians ad Litem CASAs
Legal Ability	3.7	---	---	---	---
Impartiality	3.9	4.1	4.8	3.5	5.0
Integrity	4.1	4.3	---	3.6	5.0
Temperament	4.1	4.4	4.9	3.8	5.0
Diligence	3.8	4.1	---	3.5	5.0
Overall	3.8	4.2	4.8	3.7	5.0

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Rating Scale

5.0 = Excellent
 4.0 = Good
 3.0 = Acceptable
 2.0 = Deficient
 1.0 = Poor

Summary of Survey Information

Attorneys in Alaska rated Judge Landry on the six categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge Landry on overall performance was 3.8. Peace and probation officers rated Judge Landry on five categories, using the 5-point scale above. They gave Judge Landry a rating of 4.2. Three other groups also evaluated Judge Landry's performance, using the same 5-point scale with 5 as the highest rating. Jurors rated him 4.8, court employees gave him 3.7, and social workers, guardians ad litem and CASA volunteers rated him at 5.0.

Recommendation: Vote "NO" on the retention of Judge David S. Landry

Contact the Judicial Council at 1029 W. Third Avenue, Suite 201, Anchorage, AK 99501 (telephone: (907) 270-2526) for more detailed information, or review the information on our Internet site at: www.ajc.state.ak.us

November 2006

Alaska Judicial Council Recommendation

Judge Michael P. McConahy, Superior Court, Fairbanks

Judicial Council Recommendation 2012

The Alaska Judicial Council is a non-partisan citizens' commission established by the Alaska constitution. Alaskan law requires the Council to evaluate judges' performance and authorizes the Council to recommend to voters whether judges should be retained in office. The Judicial Council reviews judges' integrity, diligence, legal ability, fairness, demeanor, ability to manage their caseloads, and overall performance of their judicial responsibilities in and out of the courtroom. The Judicial Council finds Judge McConahy to be *Qualified* and recommends unanimously that the public vote "Yes" to retain him as a superior court judge.

Judicial Council Evaluation

The Judicial Council surveyed thousands of Alaskans including peace and probation officers, court employees, attorneys, jurors, social workers and guardians ad litem about the judges on the ballot. Respondents were asked to rate judicial performance and to submit comments. The Council also reviewed the ratings and observations of the Alaska Judicial Observers, independent community-based volunteers. The Council reviewed the judge's peremptory challenge, recusals, and appellate affirmance and reversal rates; any civil or criminal litigation involving the judge; APOC and court system conflict-of-interest statements; any disciplinary files involving the judge; and whether a judge's pay was withheld for an untimely decision. The Council reviewed other court records and investigated judicial conduct in specific cases. The Council interviewed some judges, attorneys, and court staff, and held a statewide public hearing to obtain comments about judges.

	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey	Social Workers Guardians ad Litem
Legal Ability	4.2	—	—	—	—
Impartiality	4.2	4.2	4.8	4.3	3.5
Integrity	4.3	4.3	—	4.3	4.0
Temperament	4.3	4.2	4.9	4.1	4.0
Diligence	4.3	4.2	—	4.2	3.5
Overall	4.2	4.3	4.9	4.2	4.0

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Rating Scale
 5.0 = Excellent
 4.0 = Good
 3.0 = Acceptable
 2.0 = Deficient
 1.0 = Poor

Summary of Survey Information

Survey respondents rated Judge McConahy on the categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge McConahy on overall performance was 4.2. Peace and probation officers gave Judge McConahy a rating of 4.3. Jurors rated him 4.9 overall, court employees gave him 4.2, and social workers and guardians ad litem rated him at 4.0.

Recommendation: Vote "YES" to retain Judge Michael P. McConahy

For more information go to
www.knowyouralaskajudges.com