

Alaska Judicial Council
Application for Judicial Appointment

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MAY 31 2005

**ALASKA
JUDICIAL COUNCIL**

Position(s) for which you wish to be considered
Anchorage Superior Court
Third Judicial District

Date May 28, 2005

I. Public Information (Questions 1-24)

Personal

1 (a) State full name* Eric Alan Aarseth
Name as it should appear on bar survey Eric A. Aarseth

* Unless otherwise specified, this is how your name will appear on the bar survey

(b) Have you ever used or been known by any other name? If so, please identify
No

2 How long have you been a resident of the State of Alaska immediately preceding the date of this application? **
14 years 0 months
Total 14 years 0 months

3 How long have you been engaged in the active practice of law immediately preceding the date of this application? **
14 years 8 months
Total 14 years 8 months

Nonlegal Education

4 State names and dates of attendance of all colleges and professional schools (other than law schools) ever attended and degrees and dates conferred. List any honors

University of Minnesota, Institute of Technology.
Attended September, 1981 through March, 1987.
B.S. Geological Engineering received March, 1987.

** See AS 22.10.090, see also 1984 Inf Op Atty Gen (July 19 366-624-84)

Legal Education

- 5 List all law schools, dates attended and degrees conferred. If you did not receive a degree from any law school, please indicate.

William Mitchell College of Law (WMCL).
Attended August, 1987 through June, 1990.
Received J.D. June, 1990.

University of Iowa, Archachon, France, Summer Course. May - June, 1988. 6
course credits received and applied to degree received from WMCL.

- 6 (a) Did you receive any honors in law school or belong to any honorary societies or groups?
 Yes No If yes, please give details.

- (b) Have you taken any CLE (continuing legal education) courses during the past five years?
 Yes No

Please describe or list. Please do not attach individual certificates of attendance.

May, 2005: Family Law Committee, Presentation by Judge Craig Stowers.
Jan - March, 2005: Air Force Operational Law (ICEJOLT); Air National Guard (ANG) Law Office & Ethics; Air Force Survey of the Law & Ethics.
Oct 2003: ANG Law Office & Ethics.
August, 2002: Legal writing and editing.
Oct 1999 - 2001: DA Conference (Trial Practice & Ethics).

Military

- 7 Have you served in the armed forces (reserves or otherwise)? Yes No

If so, please provide the following information:

- (a) Dates of service Jan. 1991 - April, 1994; September, 2003 - present.
- (b) Branch of service Army; Air National Guard (ANG).
- (c) Rank at time of discharge Captain; n/a
- (d) Type of military discharge Honorable; n/a
- (e) Awards or citations

Army Service Ribbon; National Defense Service Ribbon; Army Achievement Medal; Overseas Ribbon; Parachutist Badge.

- (f) Have you ever been refused admission to or released from any of the armed services for reasons other than honorable discharge? Yes No If so, state the details

Nonlegal Employment

- 8 Describe major nonlegal working experience. If you had a business or association that has been discontinued, please note whether there are unpaid debts or claims pending litigation.

None.

Legal Experience

- 9 Describe chronologically your legal employment since admission to law school **Please provide dates, name of employer, name of supervisor or person who can verify employment, addresses, the reason you left the position, and a brief description of type of practice (i.e., insurance defense, criminal, appellate, general, litigation, etc.) for each position listed below**

The Council will ask for comments from your current and former employers about your employment and your judicial qualifications. You may choose to list other persons as character and professional references in response to Question 20 of this application.

If the supervisor or contact person asks (in writing) that the letter be shared with the governor, the Council will send designated letters for each nominee. The applicant should not request a copy of the letter from the reference. References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

Current Employer: State of Alaska, Department of Law, Civil Division, Torts Section

Supervisor or name of contact person who can verify employment Gail Voightlander.

Current address of this person 1031 W 4th Avenue, Suite 200

City Anchorage State AK Zip 99501

Dates of Employment From May, 2002 To Present

Description Civil Defense of agencies and individuals

Previous Employers: *(In chronological order most recent first)*

Employer: 176th Wing, Alaska Air National Guard

Supervisor or name of contact person who can verify employment Major John Darnall

Current address of this person: 5005 Raspberry Road

City Anchorage State AK Zip 99502

Dates of Employment From September, 1993 To Present

Description Deputy Staff Judge Advocate (Employment law, limited family law, simple wills, landlord/tenant, military operations & international law

Reason for leaving This is a current employer, I have not left this employment.

Employer: State of Alaska, Dept. of Law, Office of Special Prosecutions & Appeal

Supervisor or name of contact person who can verify employment Judge Brian Clark

Current address of this person Anchorage District Court, 825 W 4th Ave.

City Anchorage State AK Zip 99501

Dates of Employment From November, 1999 To May, 2002

Description State-wide prosecution of fish and game violations, primarily commercial activities.

Reason for leaving To accept AGO Torts position. Career change to civil trial work.

Previous Employers (continued)

Employer: State of Alaska, Dept. of Law, Anchorage District Atty's Office
Supervisor or name of contact person who can verify employment Susan Parkes
Current address of this person 313 K Street, Suite 507
City Anchorage State AK Zip 99501
Dates of Employment From October, 1996 To November, 1999
Description Prosecution. Violent Crime Unit, Drug Unit, Misdemeanor Unit.

Reason for Leaving Accepted OSPA position with state-wide duties.

Employer State of Alaska, Dept. of Law, Dillingham District Atty's Office
Supervisor or name of contact person who can verify employment Kenneth Goldman
Current address of this person Law Offices of Kenneth Goldman, 510 S. Alaska Street
City Palmer State AK Zip 99645
Dates of Employment From July, 1994 To October, 1996
Description Responsible for all prosecutions in Bristol Bay along with responsibility for juvenile delinquency and child in need of aid (CINA) cases.

Reason for Leaving Accepted position in Anchorage DA's office.

Employer: United States Army, Judge Advocate General's Corp
Supervisor or name of contact person who can verify employment Tammy Tobia
Current address of this person Office of the Staff Judge Advocate, Building 600
City Fort Richardson State AK Zip 99505
Dates of Employment From January, 1991 To April, 1994
Description Legal Assistance (family law, simple wills & estates) & Military Justice.

Reason for Leaving Tour of Duty complete. Wanted to remain in Alaska.

Employer Ramsey County Attorney's Office
Supervisor or name of contact person who can verify employment Al Zdravil
Current address of this person 50 W. Kellogg Blvd, Suite 315
City Saint Paul State MN Zip 55102-1657
Dates of Employment From April, 1989 To December, 1990
Description Special Assistant County Attorney (Child in Need of Aid and Juvenile Delinquency cases).

Reason for Leaving To accept commission as an officer in the Army JAG Corp.

Employer: Messerli & Kramer
Supervisor or name of contact person who can verify employment Jim Wicka
Current address of this person 80 S. 8th Street, #3905
City Minneapolis State MN Zip 55402
Dates of Employment From October, 1989 To April, 1989
Description Law clerk for team of three personal injury plaintiff attorneys.

Reason for Leaving Better pay and health benefits Trial experience.

10. For the past five years, please indicate (approximately) the following

(a) Percent of your practice that was

| | |
|----------|--------|
| Civil | 60 |
| Criminal | 30 |
| Other | 10 |
| | = 100% |

Comment "Other" constitutes law issues unique to the military.

(b) Percent

| | |
|---------|--------|
| State | 90 |
| Federal | 10 |
| Other | 0 |
| | = 100% |

Comment _____

(c) Of practice in state courts, percent

| | |
|------------------|--------|
| Supreme Court | 10 |
| Court of Appeals | 0 |
| Superior Court | 70 |
| District Court | 20 |
| | = 100% |

Comment _____

(d) Frequency of appearance in court
 Regularly Occasionally Infrequently Not at All

Comment _____

(e) Number of trials (by court or jury) you conducted in the past 5 years
 None 1-5 6-15 16-30 31 or more

Comment All trials were conducted 5 years ago.

(f) Percent of these trials which were Jury 30 Non-Jury 70

Comment _____

(g) Approximate number of appellate matters handled 3

Comment _____

(h) Approximate number of arbitrations or administrative hearings
 None 1-5 6-15 16-30 31 or more

Briefly describe type of matters heard

(i) Have you undertaken any *pro bono* work through a *pro bono* legal service provider (e.g. Alaska Legal Services, Alaska Network on Domestic Violence and Sexual Assault, etc.) during this period? Yes No

Describe

- 11 List all the courts and administrative tribunals in the United States or elsewhere to which you are or have been admitted to practice, and the dates of admission

State of Minnesota; October, 1990. Inactive since July, 1994.
 State of Alaska, June, 1994.
 United States District Court - Anchorage; January, 2003
 United States Court of Appeals - 9th Circuit, June, 2003.

Public Service

- 12 List bar associations, and sections and committees of which you are or have been a member or officer

Minnesota Bar Association.
 Alaska Bar Association. Family Law Section.

- 13 List legal publications, if any (give title, subject and date of publications)

None

- 14 Have you ever applied for a judgeship? Yes No

Please list dates and judgeships applied for, as well as whether you were nominated by the Judicial Council and appointed

| Judgeship | Date | Nominated By Council (Y/N) | Appointed By Governor (Y/N) |
|--------------------------|---------|----------------------------|-----------------------------|
| Anchorage District Court | 8/2004 | Y | N |
| Anchorage District Court | 11/2004 | Y | N |
| | | | |
| | | | |

- 15 Have you ever held public or political office, elective or appointive? Yes No

If so, state office, manner selected, and when and where held

- 16 Please provide the Council with information that you would like the Council to consider about other legal and nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal organizations. Please indicate whether you participate in the organization's activities, or simply hold a membership. Your involvement in the community is one of the criteria the Council uses in its evaluations. The Council does not use affiliation with a particular group as a criterion except to the extent that it might raise questions of conflict of interest or would affect an applicant's ability to impartially apply the law.

Alaska Fly Fishers: attend meetings and social events.
Sons of Norway: attend meetings and social events.
National Rifle Association: Simply hold membership.

- 17 Indicate (Yes or No) whether you have ever

- (a) been arrested, charged with, pled guilty or *nolo contendere* to, or been convicted of the violation of any law or ordinance, or been requested to appear before any prosecuting or investigative agency in connection with any matter in any jurisdiction, including all traffic offenses, unless the fine was less than \$50 and there were no other sanctions?
 Yes No
- (b) failed to answer any summons or other legal process served upon you personally, at any time? Yes No
- (c) as a member of any armed forces, been the subject of any charges which may have resulted in disciplinary action or court martial? Yes No

- (d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? Yes No

If your answer is "yes" to any part of this question, state the facts in detail. Give the name and place of the court or agency, dates of the beginning and end of any action or proceeding, case numbers, and the judgment or other disposition.

Anchorage Traffic Court: Speeding ticket, 54/35 mph on May 16, 2004. Citation # A1389910. Nolo plea on July 19, 2004. No fine assessed because defensive driving course completed and no similar violations for one year.

Anchorage Traffic Court: Speeding ticket, 52/40 mph on July 1, 1994. Citation # unknown. Paid ticket through the mail. Fine less than \$100.

Hennepin County District Court, 3rd Division, Minnetonka, MN. Public misconduct; June, 1985. Citation # unknown. \$44 fine paid.

- 18 (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? Yes No

In particular, have you been the subject of any proceeding, criminal or civil, initiated against you by the Internal Revenue Service or a State Tax Office? Yes No

If so, give particulars, including case numbers

- (b) Have you ever been sued by a client? Yes No

If so, give particulars, including case numbers

- (c) Have you ever been a party in any other legal proceeding? Yes No

If so, give the particulars. Include all legal proceedings in which you were a party in interest, including petitioner or respondent in dissolution or divorce proceedings, a material witness, a named co-conspirator or correspondent, and subject or witness in any grand jury proceedings. Do not list proceedings in which you were sued only in a representative capacity (e.g. guardian ad litem, or as Commissioner of Natural Resources)

19 State the nature and disposition of any of the following actions which apply to you

- (a) Are there any unsatisfied judgments against you? Yes No
Have you ever defaulted in the performance of any court-imposed obligation, including payment of alimony or child support or compliance with another court order or decree?

Yes No

In each case, list the name and address of the creditor, the court which rendered the judgment, the case number, the date, the amount of the judgment, and the circumstances on which such claim was based

Has property owned by you been either judicially or non-judicially foreclosed?

Yes No

Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure

- (b) Have you ever made an assignment for the benefit of creditors? Yes No

Have you ever filed any petition in bankruptcy? Yes No

If so, state the circumstances, case number, and the outcome

References and Counsel Questionnaires*

- * **Please Note** Letters of reference from these persons are confidential and will not be given to the applicant. If the reference asks (in writing) that the letter be shared with the governor, the Council will send designated letters and counsel questionnaires for each nominee. The applicant should not request a copy of the letter from the reference. (You **should not** list the Chief Justice of the Alaska Supreme Court.)

References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

- 20 (a) List the names, addresses, **including zip codes**, and **phone numbers** of two persons whom the Judicial Council may contact who can discuss your general character and background.

Name David R. Wallace
Address Pentlarge Law Group, 1400 W. Benson Blvd., Suite 530
City/State/Zip Anchorage, AK 99503 Phone 276-1919

Name Brigadier General (ret) Gene Ramsey
Address Kulis Air National Guard Base, 5005 Raspberry Road
City/State/Zip Anchorage, AK 99502-1998 Phone 345-6647

- (b) List the names, addresses, **including zip codes**, and **phone numbers** of three other persons whom the Judicial Council may contact who can discuss your professional competence and qualifications for a judicial position.

Name Judge Larry D. Card
Address Anchorage Superior Court, 825 W. 4th Avenue
City/State/Zip Anchorage, AK 99501-2004 Phone 264-0414

Name Louis J. Menendez
Address 227 7th Street
City/State/Zip Juneau, AK 99801 Phone 586-5996

Name Judge Fred Torrasi
Address Dillingham Superior Court, Box 909
City/State/Zip Dillingham, AK 99576 Phone 842-5215

References and Counsel Questionnaires (continued)

- (c) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that have gone to trial. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases which have gone to trial within the past three years. Please include the judge's name and case names and numbers. (Attach additional pages if necessary.)

Case Number 1

Case Name: No trials within last 3 years. Case Number: _____
 v. _____ Judge Name: _____

Attorneys Involved:

| | |
|------------------------|------------------------|
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |

Case Number 2

Case Name: _____ Case Number: _____
 v. _____ Judge Name: _____

Attorneys Involved:

| | |
|------------------------|------------------------|
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |

Case Number 3

Case Name: _____ Case Number: _____
 v. _____ Judge Name: _____

Attorneys Involved:

| | |
|------------------------|------------------------|
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |

References and Counsel Questionnaires (continued)

- (d) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that did not go to trial but in which you did significant work. (Applicants who are currently judges should list the three most recent cases they presided over that did not go to trial but in which they did significant work.) Please include the judge's name and case names and numbers. (Attach additional pages if necessary.)

Case Number 1

Case Name: Howard Olds v State of Alaska **Case Number:** 3CO-02-18 CI
v. SOA-TPP v. City of Cordova-TPD **Judge Name:** Donald K. Hopwood

Attorneys Involved:

| | |
|---|---|
| Name <u>Michael J. Schneider</u> | Name <u>Frank Koziol</u> |
| Address <u>880 N Street, Suite 202</u> | Address <u>618 Christensen Drive</u> |
| City, State, Zip <u>Anchorage, AK 99501</u> | City, State, Zip <u>Anchorage, AK 99501</u> |
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |

Case Number 2

Case Name: Mark L Sawyer **Case Number:** 3AN-02-6802 CI
v. SOA, Marine Highway System **Judge Name:** John Suddock

Attorneys Involved:

| | |
|--|------------------------|
| Name <u>Herbert A. Viergutz</u> | Name _____ |
| Address <u>1029 West 3rd Ave., Suite 280</u> | Address _____ |
| City, State, Zip <u>Anchorage, AK 99501</u> | City, State, Zip _____ |
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |

Case Number 3

Case Name: Sandra Cloué **Case Number:** 3AN-04-3798 CI
v. State of Alaska **Judge Name:** Mark Rindner

Attorneys Involved:

| | |
|--|------------------------|
| Name <u>Michael A. Braun</u> | Name _____ |
| Address <u>1407 W 31st Avenue, 7th Floor</u> | Address _____ |
| City, State, Zip <u>Anchorage, AK 99503</u> | City, State, Zip _____ |
| Name _____ | Name _____ |
| Address _____ | Address _____ |
| City, State, Zip _____ | City, State, Zip _____ |

Writing Sample

21 Attach one example of a brief, memorandum of law, or legal opinion or similar example of legal writing (10-20 pages in length, 15-25 pages for appellate positions) prepared solely by you within the last five years. If you do not have a good sample of this length, include an excerpt from a longer writing. Make sure the sample contains sufficient facts to make it understandable.

Please do not submit (a) coauthored writing samples, (b) samples with confidential information unless redacted to remove such information, (c) longer writing samples.

22 Has any **public** sanction been imposed against you in response to a complaint, charge or grievance brought against you as an attorney or a judge? Yes No

Have formal grievance procedures been brought against you? Yes No

See Bar Rule 22(b) & (c) concerning public grievance procedures against attorneys, and AS 22.30.011(b) and 060(b)(3) concerning public grievance procedures against judges.

Have you ever been held in contempt of court? Yes No

In each case, state in detail the circumstances and the outcome.

Additional Comments (Non-Confidential)

23 Please make any additional comments that you wish to bring to the Council's attention about your experience and suitability for this judgeship.

My broad base of work experience in criminal, civil and military law have presented me with many challenges and hurdles to overcome. Frequently my learning curve has been quite steep. What I've learned over the years is that regardless of how many cases I try, the number of courts that I am in or the number of legal issues I litigate in motion work, there is always going to be a new and different challenge around the corner. I believe my work experience isn't so much an example of being an expert in any one field of law, but is more a representation of my willingness to work hard and diligently improve myself and my work-product each and every day on the job.

Additional Comments (Continued)



- 24 Please prepare a brief biographical statement (limited to 150 words) about your background, legal education, and legal experience. Your picture and a copy of this statement will be scanned and posted on the Council's website after the application deadline. In its Bar survey, the Council will invite attorneys to review the information if they wish to become more familiar with your background and experience. Use the form on the following page for your biographical statement. Please leave the box at the top empty. The Council will use this space for your scanned picture.

Biographical Statement

Name Eric A Aarseth

Position(s) for which you wish to be considered

Anchorage Superior Court

Third Judicial District

Date May 28, 2005

I grew up in a small farming community in rural Minnesota. After receiving an engineering degree from the University of Minnesota, I attended William Mitchell College of Law in St Paul, Minnesota and earned my law degree. In 1991, I joined the Army as a JAG Corp officer. I was stationed at Fort Richardson, Alaska completing one tour of duty before being honorably discharged. I was then employed by the State of Alaska, Department of Law as a prosecutor for eight years. During that time, I worked in courts throughout the state. I now work in the Civil Division of the Department of Law, in its Torts Section where I've been employed three years. I joined the Alaska Air National Guard as a JAG attorney in 2003 and work at Kulis Air National Guard Base as the Deputy Staff Judge Advocate.

Certification and Waiver

I hereby certify that, to the best of my knowledge, the information provided on this application is true and complete, and that I am a citizen of the United States and of the State, and will be eligible to be licensed to practice law in Alaska at the time of expected appointment (Ak. Const. Art IV, § 4)

I waive any privilege of confidentiality I may have with respect to information concerning my qualifications for judicial office that the Judicial Council may desire to obtain. I specifically authorize the Council to obtain and examine my personnel files from current and past employers, including all files maintained by the Alaska Court System, and to obtain information, records and documents regarding me from any credit reporting agency, any law enforcement agency, any bar association, any occupational licensing board, any educational institution, and any disciplinary body, including specifically the Alaska Bar Association and the Alaska Judicial Conduct Commission. I further authorize these institutions, organizations, and individuals, and any other institutions, organizations and individuals to make available to the Council all confidential and non-confidential documents, records and information concerning me that the Council may request.



Signature of Applicant

Eric A. Aarseth

Typed Name

May 28, 2005

Date

Subscribed and sworn to before me this 28th day of May, 2005

Ann Vigil

Notary Public, State of Alaska
My Commission expires 11/22/06

