

Alaska Judicial Council Recommendation

Judge Richard H. Erlich, Superior Court, Kotzebue

I. Judicial Council Evaluation. The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Erlich to be **Qualified** and recommends unanimously (6-0) that the public vote "YES" to retain him as a superior court judge.

II. Summary of Evaluation Information. In a survey sent to all 2,644 attorneys in Alaska, Judge Erlich was rated in the good range on overall judicial performance (3.9, see graph). He scored highest in the category of "human understanding and compassion" (4.3). He scored lowest (3.6), but still in the good category in "legal and factual analysis."

Summary Categories	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey
Legal Ability	3.7	---	---	---
Impartiality	4.2	3.9	4.7	---
Integrity	4.1	4.0	---	4.3
Temperament	4.1	4.2	4.8	4.4
Diligence	4.1	4.2	---	4.2
Special Skills	3.9	3.9	---	3.7
Overall	3.9	4.0	4.7	4.1

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

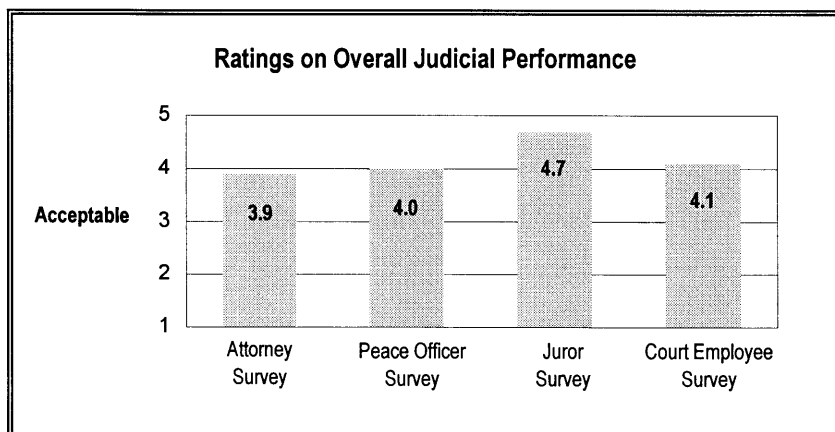
Range Description

4.0 - 5.0 = Excellent
 3.5 - 3.9 = Good
 3.0 - 3.4 = Acceptable
 2.5 - 2.9 = Below Acceptable
 1.0 - 2.4 = Poor

A survey of all 1,890 peace and probation officers in Alaska rated Judge Erlich in the excellent range on overall judicial performance (4.0, see graph). He scored highest (4.3) in the categories of "human understanding and compassion" and "willingness to work." He scored 3.9 or better in all thirteen categories.

A survey of all jurors appearing before Judge Erlich in 1998 and 1999 rated him in the excellent range (4.7) on overall performance. A survey of all court employees rated him in the excellent range (4.1) on overall performance.

The Council also completed a background investigation including a court records check, a disciplinary records check, a review of conflict of interest statements submitted to the court system, a review of any withheld salary warrants and a review of financial disclosure statements submitted to the Alaska Public Offices Commission. Attorneys, peace officers, court employees and jurors were asked to submit written comments about the judge. The Council actively encouraged the public to comment, both in writing and in a statewide public hearing teleconference.



Recommendation: Vote "YES" to retain Judge Erlich

Contact the Judicial Council at 1029 W. 3rd, Suite 201, Anchorage, AK 99501 (telephone: (907) 279-2526) for more detailed information, or review the information on our Internet site at:

www.ajc.state.ak.us

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**Alaska Judicial Council
Questionnaire**

**Trial Judge
2000 Candidates for Judicial Retention**

November 19, 1999

Richard H. Erlich
Name

Superior Court
2nd Judicial District at Kotzebue
Court

1. Describe your workload during your present term.

- a) 40 % Civil Cases b) 10 # of trials/year
 60 % Criminal Cases 3 # Administrative Appeals
 25 % Court Administrative
 100 125 % Total

The Kotzebue Court has one judge and one magistrate. They alternate weekend duty, which requires that they each work an additional 57 days or 2 months. The impact of the new children's law is here. These are now contested adjudications as well as terminations, with trials lasting about a week and requiring written opinions. Finally, the future looks more laborious. Only three years ago, Kotzebue use to have only 3 or 4 trials a year. For January 2000, we are realistically expecting to have six trials. That is extremely unusual.

2. Please describe your participation on court/Bar committees or other administrative activities during your current term of office.

1. Court Improvement Comm. CINA. 2. See attached list of Community Activities PEP: Public Education Program between Alaska Bar Assoc. and Kotzebue Trial Court

3. On a separate sheet of paper please assess, in one or two paragraphs, your judicial performance during your present term. Appropriate areas of comment could include: satisfaction with your judicial role, specific contributions to the judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities that you believe to be important.

4. During your most recent term as a judge, have you:

- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities? Yes _____ No X.

- b) been involved in a nonjudicial capacity in any legal proceeding whether as a party or otherwise? Yes _____ No X.

- c) engaged in the practice of law (other than as a judge)? Yes _____ No X.

- d) held office in any political party? Yes _____ No X.

- e) held any other local state or federal office? Yes _____ No X.

If your answer to any of the questions above is "yes," please give full details, including dates, facts, case numbers and outcomes.

Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2000 retention elections.

5. Please list the names and case numbers of the three most recent jury cases tried before you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

<i>Number</i>	<i>Name of Case</i>	<i>Case</i>
<u>1</u>	<u>2KB-99-436 CR</u>	<u>State vs. Jack O. Jones</u>

Attorneys Involved

Name: Jack Smith, Asst. Dist. Atty.
Address: P.O. Box 349 Kotzebue, AK. 9952.
Name: _____
Address: _____

Name: Robert Lewis, Esq.
Address: P.O. Box 61, Nome, AK 99762
Name: _____
Address: _____

<i>Number</i>	<i>Name of Case</i>	<i>Case Number</i>
<u>2</u>	<u>2KB-99-213 CR</u>	<u>State v. Johnny Waters</u>

Attorneys Involved

Name: Jack Smith, Asst. Dist. Atty.
Address: P.O. Box 349 Kotzebue, AK. 9952
Name: _____
Address: _____

Name: Gregg Parvine, Asst. Public Def.
Address: P.O. Box 276, Kotzebue, AK 99752
Name: _____
Address: _____

<i>Number</i>	<i>Name of Case</i>	<i>Case Number</i>
<u>3</u>	<u>2KB-99-61 CR</u>	<u>State v. Bert Willock</u>

Attorneys Involved

Name: Jack Smith, Asst. Dist. Atty.
Address: P.O. Box 349 Kotzebue, AK. 9952
Name: _____
Address: _____

Name: Robert Lewis, Esq.
Address: P.O. Box 61, Nome, AK 99762
Name: _____
Address: _____

6. Please list the names and case numbers of the three most recent non-jury cases tried before you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

<i>Number</i>	<i>Name of Case</i>	<i>Case</i>
<u>1</u>	<u>2KB-97-18/20/09 CP</u>	<u>ITMO: V.C.; J.C; T.C</u>

Attorneys Involved

- Name: Kevin Burke, AAG
Address: P.O. Box 160, Nome, AK 99762
- Name: Chris Rose, Esq.,
Address: 642 S. Alaska, Ste 520, Palmer, AK 99645
- Name: Erin White, Asst. Public Def.
Address: P.O. Box 429, Barrow, AK 99723
- Name: Brian Triplett, GAL
Address: P.O.Box 372, Kotzebue, AK 99752

<i>Number</i>	<i>Name of Case</i>	<i>Case</i>
<u>2</u>	<u>2KB-99-64 CR</u>	<u>State v. Sheidt</u>

Attorneys Involved

- Name: Jack Smith, Asst. Dist. Atty.
Address: P.O. Box 349 Kotzebue, AK. 9952
- Name: Gregg Parvine, Asst. Public Def.
Address: P.O. Box 276, Kotzebue, AK 99752
- Name: _____
Address: _____
- Name: _____
Address: _____

<i>Number</i>	<i>Name of Case</i>	<i>Case</i>
<u>3</u>	<u>2KB-97-19 CP</u>	<u>ITMO: C.C.</u>

Attorneys Involved

- Name: Kevin Burke, AAG
Address: P.O. Box 160, Nome, AK 99762
- Name: Chris Rose, Esq.,
Address: 642 S. Alaska, Ste 520, Palmer, AK 99645
- Name: Jennifer Fiess, Asst. Public Def.
Address: P.O. Box 276, Kotzebue, AK 99752
- Name: Brian Triplett, GAL
Address: P.O. Box 372 Kotzebue, AK 99752

7. Please list the names and case numbers of the three most recent cases which did not go to trial, but on which you did significant work (such as settlement conference, hearings, motion work, etc.), identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

<i>Number</i>	<i>Name of Case</i>	<i>Case</i>
<u>1</u>	<u>Tidwell <i>et al.</i>, v. Cape Smythe</u>	<u>2BA-97-35 CI/2KB-98-31</u>

Attorneys Involved

Name: Robert L. Richmond, Esq.,
Address: 360 "K" St., Suite 200,
Anchorage, AK 99501

Name: _____
Address: _____

Name: William G. Azar, Esq.
Address: 800 E. Diamond Blvd, Suite
3-440, Anchorage, AK 9915-2028

Name: William M. Wuestenfeld, Esq.
Address: 701 West 8th Ave., Suite 1100,
Anchorage, AK 99501

<i>Name of Case</i>	<i>Case Number</i>
<u>2</u> <u>Berry v. City of Selawik</u>	<u>2KB-96-123 CI</u>

Attorneys Involved

Name: Niel Kennelly, Esq.,
Address: 733 W 4th Ave., Suite 200,
Anchorage, AK 99501

Name: _____
Address: _____

Name: Mark Manning, Esq.,
Address: 431 W. 7th Ave., Suite 204,
Anchorage, AK 99501

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
<u>3</u> <u>Sieh v. CSED</u>	<u>2KB-97-86 CI</u>

Attorneys Involved

Name: Robert Lewis, Esq.,
Address: P.O. Box 61, Nome, AK
99762

Name: _____
Address: _____

Name: D. Scott Davis, AAG
Address: Dept. Law, 100 Cushman St.,
Suite 400, Fairbanks, AK 99701

Name: _____
Address: _____

8. If you deem it helpful to the Council, please list the name, case number and attorneys' names and current addresses of any other cases during your judicial career in which you believe your work was particularly noteworthy. (Attach additional pages if necessary.)

<i>Name of Case</i>	<i>Case Number</i>
1 <u>Native Village of Elim v. State</u>	<u>2NO-92-80 CI /S-8135</u>

Attorneys Involved

Name: Lance B. Nelson, A.A.G.
Address: Dept. Law, 1031 West 4th Ave., Suite 200, Anchorage, AK 99501

Name: John S. Starkey, Esq.
Address: P.O. Box 219, Bethel, AK 99559

Name: William Caldwell, Esq
Address: ALSC, 1648 Cushman. Suite 300, Fairbanks, AK 99701

Name: Michael Stanley, Esq.,
Address: P.O. Box 020449, Juneau, AK 99802

<i>Name of Case</i>	<i>Case Number</i>
2 _____	_____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
3 _____	_____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

3. On a separate sheet of paper please assess, in one or two paragraphs, your judicial performance during your present term. Appropriate areas of comment could include: satisfaction with your judicial role, specific contributions to the judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities that you believe to be important.

I write this after being at work since 6:00 a.m., facing a day of three felony change of pleas, two felony sentencings, and a jury trial from 1:00 p.m. until 6:00 p.m. I am not real enthused at the moment. But this highlights the changing nature of the court. Time to THINK is disappearing under the press of daily business. That is both frustrating and raises concern about the quality of what we are doing. The "we" refers not just to the court, but the entire justice system. Weekends are spent writing opinions, preparing community activities, catching up, the mandatory arraignments, and the occasional search warrant request, although these are usually around 2 a.m. Satisfaction is derived from the opportunity to explore issues, work with community groups, and attempt to change the system.

Rating my judicial performance: 1. My writing has significantly improved. 2. My major weakness is managing civil cases. There are not many, but the summary judgment motions always take time and are of least priority, given trials and children's matters. 3. My major emphasis is in CINA matters. This requires the integration of law, social work, child development, and psychology.

There is a need to examine the justice system as part of an integrated whole, not just the court. These comments are made with due deference to the separation of powers issue. Major users of the court system include the D.A.s, the A.A.G.s, the P.D.s, O.P.A., DFYS, and AST. There is a need to more efficiently balance resources. For example, Kotzebue has one D.A. and two P.D.s. It has a magistrate and judge. The one D.A. is running between courtrooms. This holds up the system, a second D.A. would allow for more efficient use of resources, and allow the local D.A.s to do the DFYS cases, without calling on Nome. Other examples include more coordination of transportation between Nome and Kotzebue. We now have CON(vict)AIR(lines) running twice a week between these two cities, as the Kotzebue Jail is generally always above capacity. These practical issues affect the administration of justice and are ones which the Judicial Council should examine.

Community Activities

Date	Activity	# people
11/1/98	Newsletter English Class Otz	10
11/5/98	PEP: Community Property	5
11/17/98	NANA Reg. Elders: Suicide Present	75 students & Elders
12/5/98	Graduation Speaker ALETA#20 Sitka	250 people
12/14, 15, 16/98	Workshop: Domestic Violence & Child Abuse Presentations 3 hrs	75
1/21/99	PEP: 11 th Annual Indian Law	12 (-75 wind chill/ storm)
1/28/99	PEP: 11 th Annual Indian Law	5
3/2/99	NWABSD School Board: Brain Dev. Pres	15
3/24/99	PEP: Probate Practice	2
4/7/99	Chamber Commerce: Org activity	10
4/8/99	6 th Grade: Future Problem Solvers - alternatives to prison: Terry Walker teacher; Josh Wick, Tirrell Thomas; Hillary Upickson; Dawn Ubben	5
4/30/99	Law Day 1999 + Broadcast live on Radio & Web page on School District Server	10
8/12/99	Presentation to School Principals	16
8/24/99	Presentation to NWAB Assembly: Annual Report	20
10/7/99	NAB Public Safety Action Comm	15
11/3/99	Kotzebue 6 th Grade Class	20
11/4/99	Nikaitchuat Tribal School Brain Dev.	13
12/16/99	PEP: Judge Challeen	3

MEMORANDUM

TO: Judicial Council Members

FROM: Staff

DATE: May 16, 2000

RE: Comparison of Previous Survey Results - Richard H. Erlich

Richard H. Erlich is standing for retention in 2000. The tables on the following page compare retention and selection survey scores for Judge Erlich. Changes in the form and content of the various surveys should be noted carefully in making any comparisons.

Judge Erlich previously stood for retention as a superior court judge in 1994 and was evaluated with the other non-retention judges in 1992 and 1998.

Judge Erlich applied for and was appointed to the Kotzebue Superior Court in 1991. He applied for the Supreme Court in 1998 but was not nominated for that position.

Judge Richard H. Erlich								
Retention surveys								
	2000 Retention		1998 Retention Preview		1994 Retention		1992 Retention Preview	
	Bar	PPO	Bar	PPO	Bar	PPO	Bar	PPO
Legal Ability	3.7	—	3.7	—	3.5	—	3.8	---
Fairness	4.2	3.9	4.0	3.6	3.9	4.1	4.3	4.1
Integrity	4.1	4.0	4.1	4.4	3.9	4.0	4.2	4.0
Judicial Temperament	4.1	4.2	4.2	4.3	4.0	4.1	4.2	4.3
Diligence	4.1	4.2	—	—	3.9	4.1	4.0	4.1
Administrative Skills	3.9	3.9	—	—	4.0	3.8	4.3	4.1
Overall Performance	3.9	4.0	3.8	3.7	3.7	3.8	4.0	4.1

Judge Richard H. Erlich			
appointed to Kotzebue Superior Court 3/8/91			
	1998 Supreme Court		1991 Kotzebue Superior
	Score	Range	
Professional Competence	3.4	Acceptable	3.5
Integrity	3.9	Good	3.9
Fairness	4.0	Excellent	3.9
Judicial Temperament	3.7	Good	3.7
Suitability of Experience	3.2	Acceptable	---
Overall Performance	3.5	Good	3.7