

Alaska Judicial Council Recommendation

Judge Donald D. Hopwood, Superior Court, Kodiak

I. Judicial Council Evaluation. The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Hopwood 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 Hopwood was rated in the good range on overall judicial performance (3.7, see graph). He scored highest in the category of "conduct free from impropriety" (4.1). He scored 3.6 or better in all sixteen categories.

Summary Categories	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey	CourtWatch Report
Legal Ability	3.8	---	---	---	---
Impartiality	3.8	4.3	4.8	---	4.5
Integrity	4.0	4.3	---	4.4	---
Temperament	3.9	4.4	4.8	4.4	4.2
Diligence	4.0	4.2	---	4.4	---
Special Skills	3.8	4.2	---	4.3	---
Overall	3.7	4.3	4.7	4.4	4.2

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

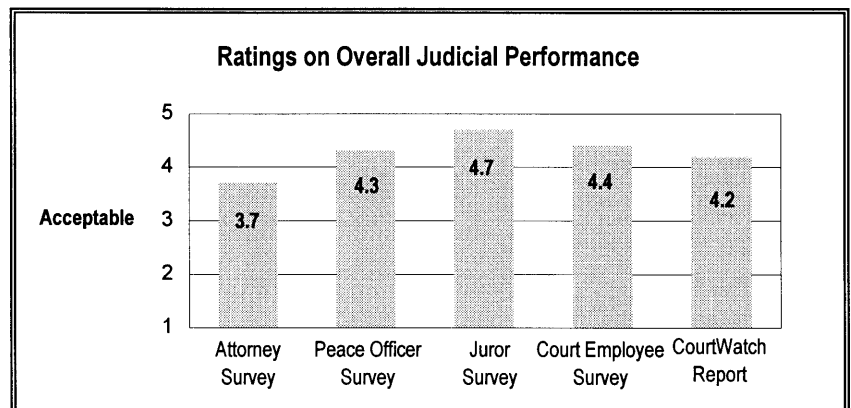
Range Description

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 Hopwood in the excellent range on overall judicial performance (4.3, see graph). He scored highest in the category of "courtesy" (4.5). He scored 4.1 or better in all thirteen categories.

A survey of all jurors appearing before Judge Hopwood 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 (4.4) on overall performance. The independent CourtWatch Report gave Judge Hopwood a 4.2 overall rating.

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 Hopwood

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



alaska judicial council

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http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

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Alaska Judicial Council Questionnaire

Trial Judge 2000 Candidates for Judicial Retention

November 19, 1999

RECEIVED

JAN 14 2000

AK Judicial Council

Donald D. Hopwood

Name

Superior Court - Kodiak

Court

1. Describe your workload during your present term.

- a) 60 % Civil Cases
- 25 % Criminal Cases
- 15 % Court Administrative
- 100 % Total
- b) 21 # of trials/year
- 23 # Administrative Appeals

Children's cases are included in civil cases.

Approximately 10 appeals from the District Court (civil and Criminal) in Kodiak, Anchorage, and Juneau.

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

See attached sheet

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 x No _____.

- 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.

See attached sheet

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.

See attached sheet

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>Name of Case</i>	<i>Case Number</i>
1 <u>State of Alaska v. Jason Carlson</u>	<u>3AN-S98-9716CR</u>

Attorneys Involved

✓ Name: James Fayette
Address: District Attorney's Office
310 K Street, Suite 520
Anchorage, AK 99501

Name: _____
Address: _____

✓ Name: Allen N. Dayan, Attorney at Law
Address: 745 W. 4th Avenue, Suite 230
Anchorage, AK 99501

Name: _____
Address: _____

2 <u>State of Alaska v. Dennis Stanley</u>	<u>3AN-S98-10798CR</u>
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Attorneys Involved

✓ Name: James Fayette
Address: District Attorney's Office
310 K Street, Suite 520
Anchorage, AK 99501

Name: _____
Address: _____

✓ Name: Dan Lowery
Address: Public Defender Agency
900 W. 5th Avenue, Suite 200
Anchorage, AK 99501

Name: _____
Address: _____

3 <u>State of Alaska v. Kevin Hufford</u>	<u>3VA-S98-257/265CR</u>
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Attorneys Involved

✓ Name: Roman Kalytiak
Address: District Attorney
800 W. Evergreen, Suite 102
Palmer, AK 99645

Name: _____
Address: _____

✓ Name: Lance Wells
Address: 733 W. 4th Avenue, Suite 308
Anchorage, AK 99501

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>Name of Case</i>	<i>Case Number</i>
1 <u>City of Kodiak v. Maloney</u>	<u>3KO-99-67CI</u>

Attorneys Involved

✓ Name: Melvin Stephens
Address: 104 Center Avenue
Kodiak, AK 99615

Name: _____
Address: _____

✓ Name: Steven Gray
Address: Gray, Cole & Razo
326 Center Avenue, Suite 203
Kodiak, AK 99615

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
2 <u>Wolkoff v. Suydam</u>	<u>3KO-98-20CI</u>

Attorneys Involved

✓ Name: Gabrielle LeDoux
Address: 219 Mill Bay Road
Kodiak, AK 99615

Name: _____
Address: _____

✓ Name: Matthew Jamin
Address: Jamin, Ebell, Schmitt & Mason
323 Carolyn Street
Kodiak, AK 99615

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
3 <u>Costello v. Forty-Niner, Inc.</u>	<u>3KO-98-40CI</u>

Attorneys Involved

✓ Name: Dennis M. Mestas
Address: 745 W. 4th Avenue, Suite 306
Anchorage, AK 99501

Name: _____
Address: _____

✓ Name: Steven M. Mulder
Address: 1031 W. 4th Avenue, Suite 600
Anchorage, AK 99501

Name: _____
Address: _____

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>Name of Case</i>	<i>Case Number</i>
1 <u>Smedley v. Smedley</u>	<u>3KO-98-276CI</u>

Attorneys Involved

✓ Name: Gary R. Eschbacher
Address: 718 Barrow Street
Anchorage, AK 99501

Name: _____
Address: _____

✓ Name: Steven Gray
Address: Gray, Cole & Razo
326 Center Avenue, Suite 203
Kodiak, AK 99615

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
2 <u>Katrina-Em Inc. v. City of Kodiak</u>	<u>3KO-98-126CI</u>

Attorneys Involved

✓ Name: Donna McCready
Address: Ashburn & Mason
1130 W. 6th Avenue, Suite 100
Anchorage, AK 99501

Name: _____
Address: _____

✓ Name: Thomas Evans
Address: Hicks, Boyd, Chandler & Falconer
825 W. 8th Avenue, Suite 200
Anchorage, AK 99501

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
3 <u>State of Alaska v. Stanley Vaska</u>	<u>4BE-95-111CR</u>

Attorneys Involved

✓ Name: Renee Erb
Address: Office of Special Prosecutions
and Appeals
310 K Street, Suite 308
Anchorage, AK 99501

Name: _____
Address: _____

✓ Name: Michael Dieni
Address: Public Defender Agency
900 W. 5th Avenue, Suite 200
Anchorage, AK 99501

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>Vandehei v. Duval et al.</u>	<u>1JU-97-835CI</u>

Attorneys Involved

✓ Name: Susan Guinn
Address: Choate, Guinn & Springmeyer
4660 La Jolla Village Drive,
San Diego, CA 92122

Name: _____
Address: _____

✓ Name: James E. Douglas Jr.
Address: Baxter, Bruce, Brand & Douglas
PO Box 32819
Juneau, AK 99803-2819

Name: Patrick Conheady
Address: 326 4th Avenue, Suite 309
Juneau, AK 99801
(see attached sheet for additional attorneys)

	<i>Name of Case</i>	<i>Case Number</i>
2	<u>State of Alaska v. Dyncorp</u>	<u>1JU-98-1019CI</u>

Attorneys Involved

✓ Name: Stephen C. Slotnick
Address: Attorney General's Office
PO Box 110300
Juneau, AK 99811

Name: _____
Address: _____

✓ Name: David C. Crosby
Address: Wickwire, Greene, Crosby, Brewer &
Seward
5280 Thane Road
Juneau, AK 99801-7717

✓ Name: Kenneth H. Silverberg
Address: Nixon, Hargrave, Devans & Doyle, LLP
One Thomas Circle, 7th floor
Washington, DC 20005-5802

	<i>Name of Case</i>	<i>Case Number</i>
3	<u>State of Alaska v. Trident Seafoods/ Dutch Harbor Seafoods</u>	<u>3KO-94-321CR & 3KO-94-319CR</u>

Attorneys Involved

✓ Name: J. Michael Gray
Address: District Attorney's Office
424 Marine Way, Suite 202
Kodiak, AK 99615

Name: _____
Address: _____

✓ Name: Alan Schmitt
Address: Jamin, Ebell, Schmitt & Mason
323 Carolyn Street
Kodiak, AK 99615

Name: _____
Address: _____

See attached sheet for additional cases

Alaska Judicial Council
Questionnaire
Donald D. Hopwood
Superior Court - Kodiak

Question No. 2

Court Committees and Administrative Activities:

1. Alaska Supreme Court Advisory Committee on Fairness and Access, Jury Composition Subcommittee. Approximately 1996 - 1997. This subcommittee met several times to review and make recommendations concerning jury selection and composition across the state. I chaired a panel that surveyed all clerks of court about juror lists, excusals, hardship reasons, and enforcement. The subcommittee made a written report and recommendations to the general committee.
2. Alaska Supreme Court Advisory Committee on Fairness and Access, Implementation Subcommittee. 1999 to date. I am a member of the Rural Services Task Force, which is addressing court services to the rural courts and to areas where the court system has no presence.
3. State-Wide Three Judge Sentencing Panel. I have been the administrative head of the panel since 1997. The administrative head is a regular member of the panel and receives all filings, schedules and arranges hearings, decides procedural motions, coordinates the work of the members in each case, provides reports of the panel's activities to the Chief Justice, and is the point of contact between the Chief Justice and the panel.
4. Interview Committee for Area Court Administrator applicants, Third Judicial District. 1997. Appointed by the presiding judge as one of six members to interview finalists and make recommendations to the judges in the district for the new Area Court Administrator.
5. Victim Awareness Committee, Kodiak. 1999 to date. The committee is an ad hoc committee organized by the juvenile probation officer to assemble information about the criminal justice process and rights of victims for the benefit of victims in individual cases. Representatives of various social service agencies and the judicial system meet regularly.

Alaska Judicial Council
Questionnaire
Donald D. Hopwood
Superior Court - Kodiak

Question No. 3 - Assessment of judicial performance

My caseload has two primary dimensions. The first is the variety of cases. Routinely I work on civil, criminal, child-in-need-of-aid, delinquency, probate, divorces, administrative appeals and appeals from the district court. Additionally, when the magistrate is unable to hear cases in the district court, I take those as well which include small claims, traffic and minor offenses. The civil caseload is highly varied. Kodiak usually has pending cases involving medical malpractice, personal injury and wrongful death, maritime claims, contracts, real estate, and collections. The criminal cases run the gamut of offenses. The variety is extraordinarily interesting, and it also requires diligence and organization to stay abreast of the law and procedure in each of these areas.

The second dimension of my caseload is geography. The Kodiak court hears cases originating in the entire Kodiak archipelago, which includes Kodiak city and seven villages as well as some logging camps and vast unincorporated areas. I volunteer for additional travel calendars in the Third Judicial District and for individual cases from anywhere in the state. Each year I am scheduled for travel calendars in four to five other court locations, approximately double the usual amount. I have heard cases in Anchorage, Valdez, Dillingham, Naknek, Unalaska, Cordova, Palmer, Kenai, Fairbanks, and Juneau. Besides helping the court system as a whole, my view is that working in different communities with different court staff and different attorneys is healthy for me and the judicial system, and I enjoy it immensely. I am usually away from Kodiak on court business approximately 25 percent of the year. This requires diligence and organization to accomplish, particularly from the entire staff in the Kodiak court to keep things running smoothly and to keep all the calendars timely. Additionally, I volunteered to assist the First Judicial District in Juneau with part of Judge Carpeneti's cases after he was appointed to the Alaska Supreme Court. Between December 1998 and April 1999 I decided numerous civil motions, two appeals from the district court, and an administrative appeal. Additionally, I travelled to Juneau twice for regular calendars.

Three-judge sentencing panel work provides an element not readily available to trial judges. The panel comprises of three judges hearing and deciding each case. The opportunity to consult with other trial judges in decision-making and to observe their practices is a rare opportunity which I value highly. I have been a member of the panel since 1993 and have worked with approximately nine other trial judges from across the state. My work on the panel has been among the most satisfying work in my career.

Alaska Judicial Council
Questionnaire
Donald D. Hopwood
Superior Court - Kodiak

Question No. 4 - Involvement in Legal Proceedings

In 1985 when I was in private practice, my law firm terminated a shareholder attorney for cause. He later filed two related law suits in Anchorage claiming wrongful termination, breach of contract, misrepresentation, defamation, and similar claims. The amount of money claimed by the terminated attorney ranged from an unstated amount to "in excess of" one million dollars. The defendants were my former law firm, which was dissolved in 1991, my former three law partners and me. The firm retained legal counsel and some of the claims were covered by insurance. The cases were never tried, but were settled for approximately \$40,000 and dismissed in approximately 1996.

The two cases were 3AN-86-5322CI and 3AN-87-9083CI, captioned Christie v. Schmid, Saville, Coffey, Hopwood, and Kay; and Christie v. Saville, Coffey, Hopwood & Schmid. These cases were discussed in my 1994 Judicial Council Questionnaire for retention and in my 1990 application for appointment to the superior court.

Alaska Judicial Council
Questionnaire
Donald D. Hopwood
Superior Court - Kodiak

Question No. 4 - Other Information

Since the inception of Teen Court in Kodiak in 1995, I have assisted the facilitator and instructor by teaching each class one night about the judge's role and judicial ethics, helping with practice proceedings, installing new teen court judges and attorneys, and making my courtroom and facilities available for Teen Court proceedings. Teen Court has had very beneficial effects on the defendants, as well as the youth who participate as attorneys and judges. I believe that as a judge I have a responsibility to promote and support these programs.

Alaska Judicial Council
Questionnaire
Donald D. Hopwood
Superior Court - Kodiak

Question No. 8

Attorney's addresses - continued

1. Vandehei v. Duval et al. 1JU-97-835CI
- ✓ Thomas A. Matthews
Matthews & Zahare
431 W. 7th Avenue, Suite 207
Anchorage, AK 99501
 - ✓ Brewester H. Jamieson
Lane, Powell, Spears, Lubersky
420 L. Street, Suite 300
Anchorage, AK 99501-1937

List of noteworthy cases - continued

4. OSG Bulk Ships, Inc. v. State et al. 3AN-93-7815CI
- ✓ Stephen C. Slotnick
Attorney General's Office
PO Box 110300
Juneau, AK 99811
 - ✓ Brian Durrell
1400 Benny Benson Blvd., Suite 370
Anchorage, AK 99503
5. Estate of Floyd Leeka 3KO-90-23PR
- ✓ L. Ben Hancock
PO Box 481
Kodiak, AK 99615
 - ✓ Charles A. Winegarden
100 Trading Bay Drive, Suite 8
Kenai, AK 99611

Alaska Judicial Council
Questionnaire
Donald D. Hopwood
Superior Court - Kodiak

6. Ingersoll, et al. v. Coyle, et al. 3KO-96-77CI
- ✓ Timothy D. Dooley
921 W. 6th Avenue, Suite 200
Anchorage, AK 99501
 - ✓ Richard N. Sutliff
123 Christianson Drive, Suite 1
Anchorage, AK 99501
7. Opheim v. Arctic Sun Fisheries, et al. 3KO-97-389CI
- ✓ Steven P. Gray
326 Center Avenue, Suite 203
Kodiak, AK 99615
 - ✓ Robert Richmond
Richmond & Quinn
360 K Stgreet, Suite 200
Anchorage, AK 99501
8. Halliburton v. SOA, et al. 3AN-96-04820CI
- ✓ Michael C. Geraghty
943 West 6th Avenue
Anchorage, AK 99501
 - ✓ Toby Steinberger
1031 W. 4th Avenue
Anchorage, AK 99501

MEMORANDUM

TO: Judicial Council Members

FROM: Staff

DATE: May 16, 2000

RE: Comparison of Previous Survey Results - Donald D. Hopwood

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

Judge Hopwood 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 Hopwood applied for and was appointed to the Kodiak Superior Court in 1990. He applied for the Homer District Court in 1990. He was nominated but not appointed to that position.

Judge Donald D. Hopwood								
Retention surveys								
	2000 Retention		1998 Retention Preview		1994 Retention		1992 Retention Preview	
	Bar	PPO	Bar	PPO	Bar	PPO	Bar	PPO
Legal Ability	3.8	—	3.7	—	3.5	—	3.7	---
Fairness	3.8	4.3	3.8	4.1	3.4	4.4	3.7	4.0
Integrity	4.0	4.3	4.0	4.3	3.7	4.6	3.9	4.2
Judicial Temperament	3.9	4.4	3.8	4.2	3.5	4.6	3.7	3.9
Diligence	4.0	4.2	—	—	3.7	4.3	3.7	3.9
Administrative Skills	3.8	4.2	—	—	3.4	4.1	3.6	4.0
Overall Performance	3.7	4.3	3.8	4.0	3.4	4.3	3.6	3.9

Judge Donald D. Hopwood				
appointed to Kodiak Superior Court 11/30/90				
	1990 Kodiak Superior		1990 Homer District	
	Score	Range	Score	Range
Professional Competence	3.6	High Acceptable	3.7	High Acceptable
Integrity	3.7	High Acceptable	3.8	High Acceptable
Fairness	3.6	High Acceptable	3.6	High Acceptable
Judicial Temperament	3.5	High Acceptable	3.6	High Acceptable
Overall Performance	3.6	High Acceptable	3.6	High Acceptable