

Alaska Judicial Council Recommendation

Judge Eric Smith, Superior Court, Palmer

I. Judicial Council Evaluation. The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Smith 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 Smith was rated in the excellent range on overall judicial performance (4.0, see graph). He scored highest in the category of "human understanding and compassion" (4.3). He scored 4.0 or better in all sixteen categories.

Summary Categories	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey
Legal Ability	4.0	---	---	---
Impartiality	4.1	3.4	4.8	---
Integrity	4.2	3.5	---	4.4
Temperament	4.1	3.6	4.8	4.3
Diligence	4.1	3.5	---	4.3
Special Skills	4.2	3.4	---	4.2
Overall	4.0	3.3	4.8	4.3

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

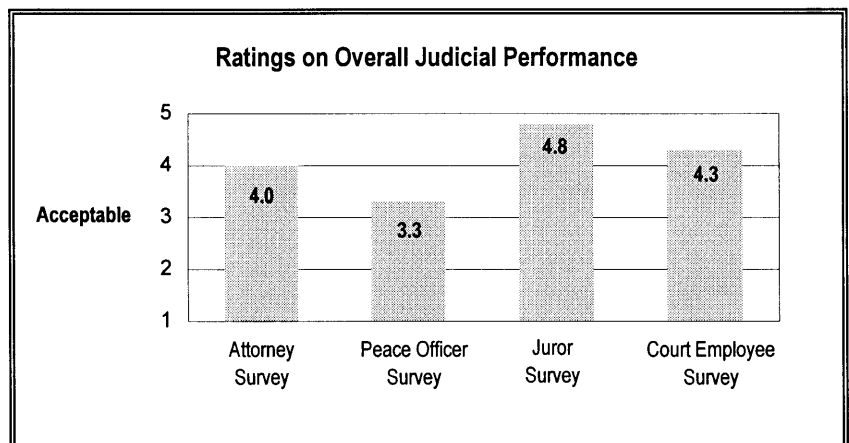
Range Description

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 Smith in the acceptable range on overall judicial performance (3.3, see graph). He scored highest (3.7) in the categories of "courtesy" and "human understanding and compassion." He scored lowest, but still acceptable (3.1), in the category of "consideration of all relevant factors in sentencing."

A survey of all jurors appearing before Judge Smith in 1998 and 1999 rated him in the excellent range (4.8) on overall performance. A survey of all court employees rated him in the excellent range (4.3) 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 Smith

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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AK Judicial Council

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Alaska Judicial Council Questionnaire

Trial Judge 2000 Candidates for Judicial Retention

November 19, 1999

ERIC SMITH

Name

Palmer
SUPERIOR Court Judge

Court

1. Describe your workload during your present term.

a) 45 % Civil Cases
45 % Criminal Cases
10 % Court Administrative
100 % Total

b) 25 # of trials/year
1-2 # Administrative Appeals/year

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

Fairness and Access Committee Implementation Committee
3rd Judicial District Security Committee

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

3. I have found my work in the Superior Court in Palmer to be interesting and instructive. A major focus of mine has been to work on finding solutions to the problems presented by the parties through non-adversarial processes where possible. One avenue that has been particularly effective in this regard is that I offer to settle every civil non-jury trial on the day of trial. I have had approximately a 90% success rate. Since the settlements almost always take less time than the trial would take, this has the obvious benefit of freeing me to work on the many other matters that come before me. But more important, I have found that settlement leads to a better resolution, as the parties assist in developing the resolution and hence have a stake in its success. This is particularly important in divorce and child custody cases, where the court's order will affect the parties and their children for many years to come.

I have also been using a somewhat new approach in jury trials. In all civil cases and in criminal cases where the parties agree, I allow the jurors to ask questions of the witnesses. The questioning is very structured, with the jurors given a detailed instruction that their questions should only be intended to clarify testimony and that their questions will be treated under the evidentiary rules like those of attorneys. The jurors present their questions in writing after the witness has completed his or her testimony. I then review the questions with the attorneys, rule on any objections, make any supplemental instructions to the jury regarding questions not asked, and then read the questions. The attorneys are given an opportunity to ask follow-up questions to the answers. Jurors are virtually unanimous in their support of this approach, and almost all of the attorneys have found it helpful. By their reports to me after trial, the jurors tend to pay better attention, and they can resolve any confusion right away, rather than trying to reconstruct the matter during deliberations. They have somewhat more of a stake in the process. Their deliberations go more smoothly, and they find less of a need to request playbacks of testimony. While some attorneys are uncomfortable with the process because it gives some control to the jury, most have found that the questions facilitated their prosecution of the case. I have found that the vast majority of the questions have been both admissible and of considerable assistance in facilitating the trial.

I look forward to the opportunity to work on these and other ideas to improve the administration of justice in Palmer.

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.

I was a witness in a personal injury case filed in Nome. A ~~deposition~~ deposition was taken. The case was settled before trial. I do not know what the settlement was. I was a witness because I worked with one of the victims - the case involved a plane crash near Elm

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.

I am working with Judge Bolger, Judge Lombardi and Magistrate Wilkerson to see sentencing error in appropriate cases in the Mat-Su Valley and the Copper River Basin.

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.)

1 Trish DILLARD vs. Michael Williams 3PA-98-990 CW

Attorneys Involved

Name: Gregory Grebe
Address: 1400 W. Benson Blvd. Ste. 102
Anchorage AK 99503

Name: _____
Address: _____

Name: Wayne Watson
Address: 310 K ST., Ste. 306
Anchorage AK 99501

Name: _____
Address: _____

2 ST. V. Dennis Irvine 3PA-98-2608 CR

Attorneys Involved

Name: ADA Dave Berry
Address: 800 W. Evergreen, Ste. 102
Palmer AK 99645

Name: _____
Address: _____

Name: PD John McConaughy
Address: 1800 Glenn Hwy, Ste. 8
Palmer AK 99645

Name: _____
Address: _____

3 ST. V. William Quill 3PA-99-408 CR

Attorneys Involved

Name: DA Roman Kalytiak
Address: 800 W. Evergreen, Ste. 102
Palmer AK 99645

Name: _____
Address: _____

Name: PD George Davenport
Address: 1800 Glenn Hwy, Ste. 8
Palmer AK 99645

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.)

1 Name of Case Deborah Drake v. Robert Drake Case Number 3PA-98-783 CW

Attorneys Involved

Name: Steven Pradell
Address: 1009 W. 7th
Anchorage AK 99501

Name: _____
Address: _____

Name: Allen Bailey
Address: 310 K STREET, Ste. 400
ANCHORAGE AK 99501

Name: _____
Address: _____

2 Name of Case Georganna C. Hodge vs. Duane D. Hodge Case Number 3PA-98-310 CW

Attorneys Involved

Name: Charles Gunther
Address: 645 G St., Ste. 300
ANCHORAGE AK 99501

Name: _____
Address: _____

Name: Joseph Loescher
Address: 550 W. 7th Ave. Ste. 1100
ANCHORAGE AK 99501

Name: _____
Address: _____

3 Name of Case Billy MARTIN vs. MARGO HOWARD Case Number 3PA-98-1128 CW

Attorneys Involved

Name: Grant STEWART
Address: 4900 PALMER-WASILLA
Hwy. Ste. #4
PALMER, AK 99645

Name: _____
Address: _____

Name: TARA Logsdon
Address: 634 S. Bailey, Ste. 201
Palmer AK 99645

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.)

1 Name of Case Case Number
DANIEL J. HEJL, et. al. vs. 3 PA -94-1035 CIV
MARION SANDS

Attorneys Involved

Name: Benjamin I. Whipple
Address: 1400 W ARCTIC AVE.
Palmer, AK 99645

Name: _____
Address: _____

Name: Timothy LAMB
Address: 1007 W. THIRD AVE., STE. 400
ANCHORAGE AK 99501

Name: _____
Address: _____

2 Name of Case Case Number
DIANNE L. HARRINGTON vs. 3PA-99-267 CIV
John B. HARRINGTON

Attorneys Involved

Name: Grant Stewart
Address: 4900 Palmer-Wasilla
Hwy., Ste. 4
Palmer, AK 99645

Name: _____
Address: _____

Name: SUSAN CARSE
Address: 750 W. 2nd Ave. Ste. 210
ANCHORAGE AK 99501

Name: _____
Address: _____

3 Name of Case Case Number
Robert S. Boyd + Dace Boyd 3PA-98-1105 CIV
vs. ST. OF AK, Dept. of Nat'l Resources,
Div. of Agriculture

Attorneys Involved

Name: Rebecca Copeland
Address: 601 W. 5th Ave., Ste. 900
ANCHORAGE AK 99501

Name: _____
Address: _____

Name: Elizabeth Hickerson, AAG
Address: 1031 W. 4th Ave., Ste. 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.)

1 Name of Case ST. v. Paul StavenjORD Case Number 3PA 97-1196 CR

Attorneys Involved

Name: Ken Goldman
Address: 510 S. ALASKA ST.
Palmer AK 99645

ADA Name: William Estelle
Address: 800 W. EVERGREEN, STE 102
Palmer AK 99645

Name: James McComas
Address: 1227 W. 9th Ave., 2nd floor
Anchorage AK 99501

Name: Carmen Gutierrez
Address: c/o Cynthia Strout
510 L STREET, STE. 306
Anchorage, AK 99501

2 Name of Case ST. v. Jeremy McNulty Case Number 3PA-97-1588 CR

Attorneys Involved

Name: DAVID G. BERRY, ADA
Address: 800 W. EVERGREEN, STE 102
PALMER, AK 99645

Name: _____
Address: _____

Name: DARREL J. GARDNER, OPA
Address: 900 W. 5th Ave., Ste. 525
Anchorage AK 99501

Name: _____
Address: _____

3 Name of Case ROBERT POTTER, Case Number 3PA-98-321 CW
Brenda Potter vs. WALTER MAGLIC

Attorneys Involved

Name: DOUGLAS JOHNSON
Address: 745 W. FOURTH AVE.
STE. 306
ANCHORAGE AK 99501

Name: ERIC JENSEN
Address: 167 E. PARKS AVE.
WASILLA AK 99654

Name: Venable Vermont, Jr., AAG
Address: 1031 W. 4th Ave., Ste. 200
ANCHORAGE, AK 99501

Name: DAVID JONES, AAG
Address: 1031 W. 4th Ave., Ste. 200
ANCHORAGE AK 99501

MEMORANDUM

TO: Judicial Council Members

FROM: Staff

DATE: May 16, 2000

RE: Comparison of Previous Survey Results - Eric Smith

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

This is Judge Smith's first time to stand for retention. He was evaluated with the other non-retention judges in 1998.

Judge Smith applied for and was appointed to the Palmer Superior Court in 1996. He applied in 1990 for the Kotzebue Superior Court. He was nominated but not appointed for that position.

Judge Eric Smith								
appointed to Palmer Superior Court 4/18/96								
	2000 Retention		1998 Retention Preview		1996 Palmer Superior		1990 Kotzebue Superior	
	Bar	PPO	Bar	PPO	Score	Range	Score	Range
Legal Ability	4.0	—	3.9	—	4.2	Excellent	4.3	Good
Fairness	4.1	3.4	3.9	3.6	3.8	Good	3.9	High Acceptable
Integrity	4.2	3.5	4.1	3.9	4.1	Excellent	4.2	Good
Judicial Temperament	4.1	3.6	4.1	3.7	3.9	Good	4.0	Good
Diligence	4.1	3.5	—	—	—	—	—	---
Administrative Skills	4.2	3.4	—	—	—	—	—	---
Suitability of Experience	—	—	—	—	3.7	Good	—	---
Overall Performance	4.0	3.3	3.9	3.6	4.0	Excellent	4.1	Good