

DEC 10 2021

Alaska Judicial Council


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# alaska judicial council

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## Alaska Judicial Council Trial Judge Questionnaire

### 2022 Candidates for Judicial Retention

**November 2021**

John Christian Cagle

Name

Palmer Superior Court

Court

1. Please estimate your workload during your present term.

a) 75 % civil cases  
20 % criminal cases  
5 % court administrative work  
 100 % Total

b) 0 # of jury trials/year  
80 # of non-jury trials/year  
2 # of administrative appeals/year

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

During the present term in office have served on and still serve on the Alaska Bar Association's Tutors Committee and Law Related Education Committee.

During the present term in office, have also served, but term expired on the Committee on Fair & Impartial Courts.

Due to trial schedules and other court commitments, my service on these committees has been limited due to frequent conflicts with noon meeting times.

Upon appointment, my service on the CINA/Juvenile Rules Committee expired due to me serving as a criminal justice agency representative to the committee.

3. Please describe any judicial or legal education you have undertaken or provided during your current term in office.

Courses Attended:

- The Evolve Experience, Red Door Project, October 2021
- Advanced Evidence for ACS, National Judicial College, April/May 2021
- 2021 Newer Judge Conference, January 2021
- Red Book Training, National Association of Counsel for Children, Nov/Dec 2020
- 2020 Fall Judicial Conference, October 2020
- 2020 Newer Judge Conference, January 2020
- 2019 Fall Judicial Conference, October 2019
- General Jurisdiction Course, National Judicial College, October 2019
- CINA Training, Nat'l Conference of Juvenile and Family Court Judges, Sept. 2019

4. Please describe any public outreach activities.

Since April 2019, have been active as a member on the Mat-Su Youth Court Advisory Board.

I also participated in presentation to the Palmer Chamber of Commerce in September 2020 in a presentation regarding retention where I was a co-presenter with Susanne DiPietro.

Late this summer I had been working with American Legion post where I am a member to schedule a therapeutic court panel for the post to discuss Veteran's Court, CRP, and Wellness court, but when the plans expanded to including posts throughout the region and I had to take leave to deal with my father's death, no event came to fruition. Still hoping to have this panel for the Legion, whose executive board membership was receptive to the idea.

5. This question pertains to Superior Court judges only.

State law requires the Council to conduct an evaluation of judges standing for retention, and to provide information to the public about the judges. Under a provision added in 2013, the information the Council provides to the public "shall include the judge's consideration of victims when imposing sentence on persons convicted of felony offenses where the offenses involve victims" (see AS 22.10.150). Although the Council's evaluations address all aspects of judicial performance, including felony sentencing, they have not in the past explicitly solicited judges' thoughts on this topic.

Please submit a short statement about how you consider victims when imposing sentences in felony offenses.

First, when imposing any criminal sentence, whether felony or misdemeanor, the court is obligated to consider the Chaney criteria, codified in A.S. 12.55.005, which includes the "seriousness of the...offense," the "need to confine the defendant to prevent further harm to the public [including the victim]," the "circumstances of the offense and the extend to which the offense harmed the victim," and "the restoration of the victim and the community." Each of these criteria require the court to consider the impact of the offense on the victim of the crime for which the defendant is sentenced. I consider the victim in each of these above criteria when analyzing the appropriate sentence.

Second, the Alaska Constitution and Victims' Rights Act both afford the right of a crime victim to be heard at any hearing. In addition, the law requires that a victim's failure to participate in sentencing may not be used as a mitigating factor or used to reduce a sentence. If I am not satisfied that a victim who is not present has been afforded notice of the hearing, I will continue the sentencing hearing to allow for that notice.

Third, there are a number of statutory aggravating factors that also consider the offense's impact on the victims working to enhance the sentence.

With all of the above in mind, nearly all of the felony sentencing that I have done, the parties are presenting the court with a complete or nearly complete Rule 11 plea agreement, including not only to what charges the defendant pleads, but also the sentence and probation conditions. The policy of the prosecutors office, as I understand, is to review any plea offer with a victim prior to making the plea offer. I seek victim input on the agreed upon plea deal, or open sentencing where applicable, at the sentencing hearing.

I have, during this term, rejected one plea agreement, which is always the prerogative of the court if the agreed upon sentence does not adequately address the sentencing criteria. That matter is still a pending case and thus should not comment.

One sentencing stands out to me in particular with respect to this question. In 3PA-20-01259CR, the victim was present at the sentencing hearing and the defendant made remarks in her colloquy that indicated a flippant attitude and stated that the victim was being overly dramatic in her victim impact statement. I directly addressed that problem with the defendant. That plea agreement eventually went through with the defendant recognizing the impact that the burglary had on the victim, her husband, and their children, who were present in the house at the time.

6. 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.

When I took the bench in 2019, my background was in criminal and civil litigation, which was heavily weighted in the criminal area. The caseload I now have as a judicial officer is weighted heavily in the domestic relations and child in need of aid areas, where I had only a scintilla of experience in practice. As a result, my learning curve has been a steep one since taking the bench. While it has been difficult to adapt to the dynamics of family law, which are much different than in general civil and criminal litigation, I do feel that I have greatly improved my knowledge and efficiencies in these areas. At this point, I have become comfortable with the majority family law caseload while continuing to learn. That being said, I do feel that I can improve in all areas of my work.

One of the areas of my caseload that I take pride in being a part of is the Palmer Coordinated Resources Project (sometimes referred to as the mental health court). I served as a CRP prosecutor during my term in the Palmer District Attorney's Office and was happy to learn when I took the bench that I would be assigned as one of the CRP judges. The program is a truly outstanding program as can be seen on a regular basis in seeing the progress and success of the participants in the court. While I cannot take the credit for the successes, as that really goes to the individual participant, the program coordinator, and the court's probation officer, I am able to contribute in my role as judicial officer in the program. I hope to be able to continue in that role for the entirety of my judicial career.

7. 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
- b) been involved in a non-judicial capacity in any legal proceeding whether as a party or otherwise?  Yes  No
- c) engaged in the practice of law (other than as a judge)?  Yes  No
- d) held office in any political party?  Yes  No
- e) held any other local, state or federal office?  Yes  No
- f) had any complaints, charges or grievances filed against you with the Alaska Commission on Judicial Conduct, the Alaska Bar Association, the Alaska Court System, or any other agency that resulted in public proceedings or sanctions?  Yes  No

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

I am the qualified and appointed executor for my father's estate in North Carolina. He passed away on August 26, 2021 and the court issued Letters Testamentary on September 24, 2021. Am in the early stages of estate administration with the 90 day inventory due on 12/24/2021 along with affidavit of notice to creditors. The estate file information is as follows: ITMO the Estate of Joe N. Cagle, State of North Carolina, County of Lincoln, file 21-E-511.

9. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2022 retention elections.

**For questions 10 - 13, please do not list any cases that have pending issues in your court.**

10. Please list your three most recent jury trials during your current term in office including case names and numbers. Please list the names and current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these trials. (Attach additional pages if necessary.)

### Case Number 1

*Case Name:* no jury trials this term, most attributable to *Case Number:* \_\_\_\_\_  
v. pandemic suspension of trials

#### 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. \_\_\_\_\_

#### 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. \_\_\_\_\_

#### Attorneys Involved:

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

11. Please list your three most recent non-jury trials during your current term in office including case names and numbers. Please list the names and current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these trials. (Attach additional pages if necessary.)

**Case Number 1**

*Case Name:* In the Matter of H.H. and B.T.W.      *Case Number:* 3PA-19-00159CN and 3PA-21-00125CN

v. \_\_\_\_\_

**Attorneys Involved:**

Name: <u>Candice M. Bales</u>	Name: <u>Sergio Barron</u>
Address: <u>515 E Dahlia St Ste 150</u>	Address: <u>515 E Dahlia Ave Ste 130</u>
City, State, Zip: <u>Palmer, AK 99645</u>	City, State, Zip: <u>Palmer, AK 99645</u>
Name: <u>Matthew Tallerico</u>	Name: _____
Address: <u>1008 16th Ave Ste 200</u>	Address: _____
City, State, Zip: <u>Fairbanks, AK 99701</u>	City, State, Zip: _____

**Case Number 2**

*Case Name:* Matthew R. Ross      *Case Number:* 3PA-21-01557CI

v. Shalyn S. Ross

**Attorneys Involved:**

Name: <u>David S. Houston</u>	Name: _____
Address: <u>517 W. Northern Lights Blvd.</u>	Address: _____
City, State, Zip: <u>Anchorage, AK 99503</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

**Case Number 3**

*Case Name:* Christian L. Klein      *Case Number:* 3PA-21-01238CI

v. Ashley N. Wyatt

**Attorneys Involved:**

Name: <u>both parties pro se</u>	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

12. Please list your three most recent cases during your current term in office, including case names and numbers, which did not go to trial, but on which you did significant work (such as settlement conference, hearings, motion work, etc.). Please list the names and current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these cases. (Attach additional pages if necessary.)

### Case Number 1

*Case Name:* State of Alaska *Case Number:* 3AN-06-09001CR  
*v.* Donald L. Jewell

#### Attorneys Involved:

Name: Adam Franklin	Name: Andy L. Pevehouse
Address: 1031 W 4th Ave Ste 200	Address: 130 South Willow St Ste 3
City, State, Zip: Anchorage, AK 99501	City, State, Zip: Kenai, AK 99611

Name:	Name:
Address:	Address:
City, State, Zip:	City, State, Zip:

### Case Number 2

*Case Name:* Barbara E. Roy et al. *Case Number:* 3PA-13-02597CI  
*v.* Herbert L. Fey

#### Attorneys Involved:

Name: John C. Pharr	Name:
Address: 733 W. 4th Ave. Ste 308	Address:
City, State, Zip: Anchorage, AK 99501	City, State, Zip:

Name:	Name:
Address:	Address:
City, State, Zip:	City, State, Zip:

### Case Number 3

*Case Name:* Lane Edward Swarts *Case Number:* 3PA-21-01253CI  
*v.* Meghan Melissa Swarts

#### Attorneys Involved:

Name: Nathan T. Henshaw	Name: M. Elizabeth Varela
Address: 807 G Street, Suite 100	Address:
City, State, Zip: Anchorage, AK 99501	City, State, Zip: Palmer, AK

Name:	Name:
Address:	Address:
City, State, Zip:	City, State, Zip:

13. *Optional:* If you deem it helpful to the Council, please list up to three other cases during your current term in which you believe your work was particularly noteworthy. Please list the names and current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these cases. (Attach additional pages if necessary.)

### Case Number 1

*Case Name:* Donald Seals *Case Number:* 3PA-20-2151CI (Appeal from 3PA-20-578CI)  
*v.* Courtney Downing

#### Attorneys Involved:

Name: Lyle Stohler	Name: _____
Address: 518 E Fireweed Avenue	Address: _____
City, State, Zip: Palmer, AK 99645	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

### Case Number 2

*Case Name:* Robert Davila *Case Number:* 3PA-19-02344CI  
*v.* Mat-Su Borough Bd. of Adjustment & Appeals et al

#### Attorneys Involved:

Name: Deborah K. Burlinski	Name: Susan L. Lemons
Address: _____	Address: 120 4th St Rm 3
City, State, Zip: Palmer, AK	City, State, Zip: Juneau, AK 99801-1182
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

### Case Number 3

*Case Name:* State of Alaska *Case Number:* 3PA-19-01534CR & 3PA-19-01535CR  
*v.* Damali Clements and Jason Freeland

#### Attorneys Involved:

Name: Richard Allen	Name: Joseph Van De Mark
Address: 515 E. Dahlia Street Ste 150	Address: 900 W 5th Ave Ste 702
City, State, Zip: Palmer, AK 99645	City, State, Zip: Anchorage, AK 99501
Name: _____	Name: Craig Howard
Address: _____	Address: 900 W 5th Ave Ste 702
City, State, Zip: _____	City, State, Zip: Anchorage, AK 99501