

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

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2020 ND 28

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In the Matter of the Vacancy in Judgeship No. 5, with Chambers in Fargo,  
East Central Judicial District

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No. 20190392

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Per Curiam.

[¶1] On December 6, 2019, the Honorable Frank L. Racek, Judge of the District Court, with chambers in Fargo, East Central Judicial District, notified this Court of his intention not to seek reelection in 2020. Judge Racek's notice of intention creates a vacancy under N.D.C.C. § 27-05-02.1.

[¶2] Under N.D.C.C. § 27-05-02.1, this Court is required to review judicial vacancies and determine, within 90 days of receiving notice of a vacancy, whether the office is necessary for effective judicial administration. This Court may, consistent with that determination, order a vacancy filled, order the vacant office transferred to another judicial district in which an additional judge is necessary, or abolish a vacant judicial office with or without a transfer.

[¶3] Under N.D. Sup. Ct. Admin. R. 7.2, notice of a written consultation with attorneys and judges and other interested persons in the East Central Judicial District was posted December 11, 2019, on the website of the Supreme Court regarding the vacancy created by Judge Racek's intention not to seek reelection in Judgeship No. 5. Notice was also electronically provided to all presiding judges of the state. Written comments on the vacancy were received through January 10, 2020. This procedure is sufficient for purposes of the consultation required under N.D.C.C. § 27-05-02.1.

[¶4] A comment from the Cass County Board of Commissioners supporting filling the vacancy in the current location was received. No comments or petitions were received to relocate this vacancy. A report containing population and caseload trends, and other criteria identified in N.D. Sup. Ct. Admin. R. 7.2(4), was filed January 9, 2020, by the East Central Judicial District. The State Court Administrator provided weighted caseload statistics through December 2019. The report shows that the two-year average need for judicial officers in the East Central Judicial District increased from 12.79 in 2017-2018 to 12.91 in 2018-2019. The report reflects a district shortage of 1.91 judicial officers based on the 2018-2019 two-year average.

[¶5] The East Central Judicial District is comprised of Cass, Steele and Traill counties, with eight judges chambered in Fargo, one judge chambered in Hillsboro, and two judicial referees. According to the district's report, Judgeship No. 5 is responsible for an equal share of the caseload in all counties of the district. The population of Cass County continues to increase. Caseload filings of administrative traffic, contract collection, and misdemeanors decreased. Caseload filings of felonies, forcible detainer and child support increased. While workload is somewhat stable the state's weighted caseload statistics show the East Central Judicial District has been consistently short of judicial officers.

[¶6] According to information provided by Lutheran Social Services for the district's report, 73% of the refugees resettled in North Dakota were settled in the Fargo metropolitan area. The refugees were from Afghanistan, Angola, Bhutan, Columbia, Democratic Republic of Congo, Eritrea, Ethiopia, Iran, Iraq, Mexico, Rwanda, Somalia, Sudan, Syria and Ukraine, which necessitates the use of interpreters should the refugees and other non-English speaking people be involved in any court hearings. The district report indicated that interpreters were needed for 26 different languages over during past five years.

[¶7] Under the criteria of Section 4 of N.D. Sup. Ct. Admin. R. 7.2, the Court has considered all submissions received by the Court and its own administrative records on state-wide weighted caseload data.

[¶8] Based on the record before us, this Court determines the office is necessary for effective judicial administration in the East Central Judicial District.

[¶9] IT IS HEREBY ORDERED, that Judgeship No. 5 at Fargo in the East Central Judicial District be filled in the manner provided by N.D.C.C. Chapter 27-25.

[¶10]       Jon J. Jensen, C.J.  
          Jerod E. Tufte  
          Gerald W. VandeWalle  
          Lisa Fair McEvers  
          Daniel J Crothers