

Filed December 19, 2019, by Clerk of Supreme Court

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2019 ND 305

In the Matter of the Vacancy in Judgeship No. 7,
with Chambers in Mandan, South Central Judicial District

No. 20190346

In the Matter of the Vacancy in Judgeship No. 6,
with Chambers in Bismarck, South Central Judicial District

No. 20190371

Per curiam.

[¶1] On November 25, 2019, the Honorable Thomas J. Schneider, Judge of the District Court, with chambers in Mandan in the South Central Judicial District, notified this Court of his intention not to seek reelection in 2020. Under N.D.C.C. § 27-05-02.1(2) a vacancy in the office of district judge occurs if a judge declares the intention not to seek reelection or if a judge fails to timely file a petition for candidacy with the secretary of state under N.D.C.C. § 16.1-11-06.

[¶2] On November 25, 2019, Governor Doug Burgum notified the Supreme Court of the retirement of the Honorable Gail Hagerty, Judge of the District Court, with chambers in Bismarck in the South Central Judicial District, effective March 16, 2020. Judge Hagerty's retirement creates a vacancy under N.D.C.C. § 27-05-02.1.

[¶3] Under N.D.C.C. § 27-05-02.1, this Court is required to review judicial vacancies that occur 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.

[¶4] Under N.D. Sup. Ct. Admin. R. 7.2 notice of a written consultation with attorneys and judges and other interested persons in the South Central Judicial District was posted November 27, 2019, on the website of the Supreme Court. Notice was also electronically provided to all presiding judges of the state. Written comments on the vacancies were permitted through December 17, 2019. This procedure is sufficient for purposes of the consultation required under N.D.C.C. § 27-05-02.1.

[¶5] A Report containing population and caseload trends, and other criteria identified in N.D. Sup. Ct. Admin. R. 7.2, Section 4, was filed December 17, 2019, by the South Central Judicial District. Additionally, the State Court Administrator provided statewide weighted caseload statistics. The information provided shows that based on the 2019 filings as of November 30, 2019, the South Central Judicial District has a need of 12.78 judicial officers. Based on an average of 2018 and 2019 filings the need is 13.04 judicial officers

[¶6] The South Central Judicial District currently has ten district judges and two judicial referees to cover Burleigh, Emmons, Grant, McLean, Mercer, Morton, Oliver, Sheridan, and Sioux Counties. Eighty percent of the population of the district resides in Burleigh and Morton Counties.

[¶7] Judgeship No. 7 is currently chambered in Mandan, which is in Morton County, and Judgeship No. 6 is currently chambered in Bismarck, which is in Burleigh County. Each judge is responsible for an equal share of the civil and criminal caseload in the district.

[¶8] 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 statewide weighted caseload data.

[¶9] Based on the record before us, this Court determines both offices are necessary for effective judicial administration in their present locations.

[¶10] IT IS HEREBY ORDERED, that Judgeship No. 7, with chambers in Mandan, in the South Central Judicial District be filled by election.

[¶11] IT IS HEREBY ORDERED, that Judgeship No. 6, with chambers in Bismarck, in the South Central Judicial District be filled in the manner provided by N.D.C.C. Chapter 27-25.

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