

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2023 ND 11

In the Matter of the Vacancy in Judgeship No. 2, with Chambers in
Bismarck, South Central Judicial District

No. 20230014

Per Curiam.

[¶1] On January 13, 2023, Governor Doug Burgum notified the Supreme Court of the resignation of the Honorable Douglas A. Bahr as Judge of the District Court, with chambers in Bismarck, South Central Judicial District effective January 31, 2023. Judge Bahr's resignation created a vacancy under N.D.C.C. § 27-05-02.1.

[¶2] Under N.D.C.C. § 27-05-02.1, within 90 days of receiving notice of a vacancy, this Court is required to review judicial vacancies and determine 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 South Central Judicial District was posted on the website of the Supreme Court January 18, 2023, regarding the vacancy created by Judge Bahr's resignation of Judgeship 2. Notice was also electronically provided to all presiding judges of the state. Written comments on the vacancy were received through February 1, 2023. This procedure is sufficient for purposes of the consultation required under N.D.C.C. § 27-05-02.1.

[¶4] No comments or petitions were received to relocate or abolish this judgeship. On January 31, 2023, the South Central Judicial District filed a

report containing population and caseload trends, and other criteria identified in Section 4, N.D. Sup. Ct. Admin. R. 7.2. On February 3, 2023, the State Court Administrator filed weighted caseload statistics for 2021 and 2022.

[¶5] The 2022 statistics submitted by the State Court Administrator were based on an average of 2021 and 2022 case filings. The weighted caseload statistics show that the two-year average need for judicial officers in the South Central Judicial District slightly decreased from 12.40 in 2020-2021 to 11.99 in 2021-2022. The report reflects a district overage of 0.01 judicial officers based on the two-year average. The total case filings for the district decreased 10% in 2022, which reduced the need for judicial officers. The State Court Administrator reports that the total filings in the judicial district decreased due to a large decrease in felony, misdemeanor, and contract/collection cases. The report filed by the South Central Judicial District concluded the decrease in criminal matters resulted from a severe staff shortage in the Burleigh County State's Attorney's office causing it to not file certain types of cases.

[¶6] The South Central Judicial District is comprised of Burleigh, Emmons, Grant, McLean, Mercer, Morton, Oliver, Sheridan and Sioux counties, with five judges chambered in Bismarck, three judges chambered in Mandan, one judge chambered in Washburn, and one judge chambered in Linton. The judicial district has two judicial referees in Bismarck. According to the district's report, Judgeship No. 2 is responsible for an equal share of the civil and criminal caseload in this district. The 2021 U.S. Census Bureau data estimates that the population in the judicial district is 163,136. The judicial district experienced 27% population growth since 2000, and more than 80 percent of the population for the judicial district resides in Burleigh and Morton counties.

[¶7] Under the criteria of Section 4, N.D. Sup. Ct. Admin. R. 7.2, the Court 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 South Central Judicial District.

[¶9] IT IS HEREBY ORDERED, that Judgeship No. 2 at Bismarck, South Central Judicial District, be retained and filled in the manner provided by N.D.C.C. Chapter 27-25.

[¶10] Jon J. Jensen, C.J.
Daniel J. Crothers
Lisa Fair McEvers
Jerod E. Tufte
Douglas A. Bahr