

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2023 ND 170

In the Matter of the Vacancy in Judgeship No. 1, with Chambers in
Jamestown, Southeast Judicial District

No. 20230256

Per curiam.

[¶1] On July 31, 2023, Governor Doug Burgum notified the Supreme Court of the resignation of the Honorable Cherie L. Clark, Judge of the District Court, with chambers in Jamestown, Southeast Judicial District, effective September 3, 2023. Judge Clark was appointed to Judgeship No. 11 in the East Central Judicial District. Judge Clark’s resignation creates a vacancy in the Southeast Judicial District 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 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 or order the vacant office be 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 Southeast Judicial District was posted August 1, 2023, on the website of the Supreme Court regarding the vacancy created by Judge Clark’s resignation of Judgeship No. 1. Written comments on the vacancy were permitted through August 31, 2023. This procedure is sufficient for purposes of the consultation required under N.D.C.C. § 27-05-02.1.

[¶4] Comments regarding filling the vacancy were received from district judges, county commissions, attorneys and court staff. A report containing population and caseload trends, and other criteria identified in [N.D. Sup. Ct. Admin. R. 7.2](#), Section 4, was filed August 30, 2023, by the Southeast Judicial District. The State Court Administrator provided weighted caseload statistics through August 18, 2023, annualized to project the total caseload for calendar year 2023 for the Southeast Judicial District and statewide.

[¶5] The Southeast Judicial District is comprised of Barnes, Dickey, Eddy, Foster, Griggs, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, and Wells Counties. The District has seven judges: one judge chambered in Ellendale, one in New Rockford, one in Wahpeton, two in Jamestown, and two in Valley City. The District does not have a judicial referee.

[¶6] According to the District's report, the population in the District remained stable from 2010 to 2022. This judgeship is responsible for one-half of the cases filed in Stutsman County. Judges chambered in Stutsman County have regular master calendar duties in McIntosh, Logan, LaMoure, and Dickey counties, as well as occasional case assignments in Eddy, Foster, Griggs, Kidder, and Wells counties.

[¶7] Stutsman County has an adult drug court and Stutsman and Barnes counties share a juvenile drug court. The judicial officer need for the drug courts is 0.399. The North Dakota State Hospital and the Anne Carlsen Center are located in Stutsman County, which the District report states results in an increased number of mental health cases and guardianship cases. The District's report reflects a decrease in criminal and juvenile cases from 4,745 in 2020 to a projected 2,541 in 2023. The District's report states a lack of personnel in the State's Attorney's office for the majority of 2022 and 2023 significantly and negatively affected Stutsman County criminal and juvenile caseload numbers as well as those of the District. The major civil caseload increased 110% from 40 in 2020 to a projected 84 in 2023.

[¶8] According to the weighted caseload study, based on the case filings and the availability of seven district judges, the Southeast Judicial District shows an overage in judicial officer need. The overage increased from 1.17 in 2021-2022 to 1.20 in 2022-2023. Vacating or moving this judgeship would not create a shortage in the District, but it would make it difficult to provide effective judicial services to residents of a geographically large district. The overage in the need for judicial officers is not significant enough to vacate this judgeship. Based on the record before us, this Court determines the District judge is necessary for effective judicial administration in Jamestown and the Southeast Judicial District.

[¶9] IT IS HEREBY ORDERED, that Judgeship No. 1 at Jamestown in the Southeast Judicial District be filled in the manner provided by N.D.C.C. ch. 27-25.

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