

STATE OF MINNESOTA

IN SUPREME COURT

C9-85-1506

ORDER

In re Second Judicial District
District Court Vacancy

Continuing Judicial Position
in the Second Judicial District
Reducing Referee Position Subject
to Reconsideration

WHEREAS, pursuant to the provisions of Minn. Stat. § 2.722, subd. 4 (1985), the Supreme Court is authorized to continue, abolish, or transfer judicial positions which are vacated upon the death, resignation, retirement, or removal from office of incumbent judges after consultation with judges and attorneys in the affected judicial district, and

WHEREAS, the Governor notified this Court of the retirement of the Honorable Edward D. Mulally, effective September 30, 1986, and

WHEREAS, after giving notice and inviting written and oral testimony, a public hearing was held on May 9, 1986, in the Supreme Court Chambers in the State Capitol, to consult with judges and attorneys in the affected district to determine whether the continuation of the judicial position being vacated by the retirement of Judge Mulally and the continuation of all referees currently chambered in the Second Judicial District are necessary for effective judicial administration, and

WHEREAS, this court has considered the arguments made regarding the continuation of the district judgeship in the Second Judicial District and the necessity of retaining all referee positions and has attached to this order a memorandum which addresses these issues,

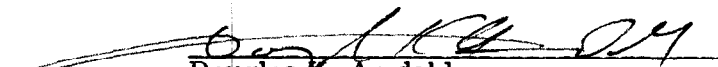
NOW, THEREFORE, IT IS HEREBY ORDERED that the vacancy in a judicial position in Ramsey County occasioned by the retirement of the Honorable Edward D.

Mulally be, and hereby is, continued in the Second Judicial District and certified to the Governor as a district court judgeship to be filled in the manner provided by law.

IT IS HEREBY FURTHER ORDERED that the number of referees in the Second Judicial District shall be reduced by one full-time equivalent position by August 1, 1987, with this provision of the order subject to reconsideration following completion of the updated weighted caseload study and its application to 1986 case filings.

Dated: June 9, 1986

BY THE COURT


Douglas K. Amdahl
Chief Justice

OFFICE OF
APPELLATE COURTS
FILED

JUN 13 1986

WAYNE TSCHIMPERLE
CLERK

MEMORANDUM

The 1985 Minnesota Legislature amended Minn. Stat. § 2.722 (1985) by adding the following subdivision:

Subd. 4. Determination of a Judicial Vacancy. When a judge of the district, county, or county municipal court dies, resigns, retires, or is removed from office, the supreme court, in consultation with judges and attorneys in the affected district, shall determine within 90 days of receiving notice of a vacancy from the governor whether the vacant office is necessary for effective judicial administration. The supreme court may continue the position, may order the position abolished, or may transfer the position to a judicial district where need for additional judges exists, designating the position as either a county, county/municipal or district court judgeship. The supreme court shall certify any vacancy to the governor, who shall fill it in the manner provided by law.

The Supreme Court recognizes and accepts the responsibility conferred upon the court, and by promulgating the accompanying order and this memorandum, intends to discharge its obligation under the law.

In our order of October 4, 1985 concerning the termination of two judicial positions in the Fifth Judicial District, we set out the criteria by which judgeship need would be measured. That measure is as follows: If, after applying the weighted caseload analysis to a judicial district or to an assignment district therein, a determination is made that there is an overabundance of judicial resources, the burden shifts to the locality to demonstrate compelling reasons for the continuation of the judgeship in question. The only issues before us are whether (1) to continue in place a district judgeship, to abolish it, or to transfer it to another location, and (2) to continue the current referee positions at their current staffing level in the Second District.

On March 10, 1986, the Governor notified the Supreme Court of the impending retirement of Judge Edward D. Mulally, effective September 30, 1986. This notification triggered the provisions of the above statute.

On May 9, 1986, after public notice, a hearing was held in the Supreme Court Chambers in the State Capitol. Senior Associate Justice Lawrence R. Yetka, liaison justice to the Second Judicial District, presided at the hearing.

The order for hearing specified that "the Supreme Court intends to consider weighted caseload information, which indicates that there currently exists a surplus of judicial positions in the Second Judicial District * * *." At the hearing, the application of the weighted caseload analysis to the Second Judicial District was presented by a representative of the State Court Administrator's office and that topic and other concerns regarding the vacated judgeship and the continuation of referee positions in the district were discussed.

WEIGHTED CASELOAD ANALYSIS AND ITS APPLICABILITY TO THE DETERMINATION OF ADEQUATE JUDICIAL RESOURCES

Since 1976, the legislature has appropriated funds for the development and implementation of the State Judicial Information System (SJIS) and its companion project, the weighted caseload analysis. SJIS, among other features, captures data by case type regarding the number of case filings and charts the progress of litigation through the court system until final disposition. The automated system allows for a very specific analysis of judicial workload at both the county and district court levels. The SJIS database, when coupled with the weighted caseload information, enables judicial administrators and the legislature to arrive at the number of judges required throughout the state to dispose of litigation filed in our courts.

Briefly stated, three factors comprise the weight caseload analysis: case weights, case filings, and judicial equivalent. Case weights are the average time required for a judge to dispose of each type of case. Case filings are the actual number of cases for each case type filed each year and are derived from SJIS. The judicial equivalent is the amount of time a judge typically has available to dispose of cases. This figure is calculated by: (1) subtracting from the calendar year, weekends, holidays, and sick, vacation, and educational/administrative leave; and (2) subtracting from the standard 7.5 hour workday, non-case related time spent on intradistrict travel; administration and file management; "dead" time, i.e., time spent awaiting trial; and general legal research and professional reading.

The case weights and judicial equivalent were derived from data collected during a survey conducted in 1980. During the period of August 11 to November 21, 1980, time actually spent by judges and court personnel was logged each day regarding specific activities. Ninety-eight percent of the judges participated and some 11,000 daily time reports were received and reviewed; any apparent anomalies were investigated, and the reports were corrected when necessary. The survey produced the amount of courtroom and chambers time that a judge typically requires to dispose of specific types of cases, thereby allowing for the derivation of case weights. Additionally, the survey determined the judicial equivalent calculation by recording the amount of time per year that a judge should have available for case-related work, accounting for travel, administrative, file management, and general legal research time.

The third element of the weighted caseload analysis, actual case filings, is provided by SJIS, which has collected detailed caseload information on a county and a district basis since 1978.

As we have recognized in previous orders, we find that the results of the weighted caseload analysis should be accorded great weight. The sample of time data collected during the survey period is remarkable: some states have relied upon a mere 20% sample of judge time collected during a few weeks. We have available one of the most comprehensive and accurate samples ever taken. The rigorous and thorough collection of actual time spent by judges in conducting their judicial business during the sampling period affords a high degree of confidence in the case weights and judicial equivalent values, both of which have been coupled with case filing data every year since 1980 to arrive at a judge-need estimate that is specific for counties and judicial districts.

Minnesota is not alone in utilizing the weighted caseload analysis in determining judicial staffing requirements. The states of Wisconsin, Washington, California, New Jersey, and Georgia utilize weighted caseload, as do the federal courts. A committee staffed by the Stanford University School of Business has concluded that weighted

caseload is the best method for determining judgeship needs.* Finally, the National Center for State Courts, the largest national courts research organization in the country, concludes in a recent study that "the best direct measure of demand is the number of weighted filings," i.e., the weighted caseload analysis.**

The weighted caseload analysis has been relied upon by both the legislature and the Supreme Court. In 1982, the legislature created 10 new judgeships in three suburban districts and added three more last year. In 1978 and 1982, the Supreme Court utilized SJIS data and weighted caseload information, respectively, to terminate two judgeships as a consequence of judicial district redistricting, pursuant to Minn. Stat. § 487.01, subd. 6, upon the retirement of a county court judge in Kandiyohi County and the appointment of a county court judge to the district court in Lac qui Parle County. We cannot ignore the legislature's implicit validation of the worth of the weighted caseload analysis by its creation of 13 judicial positions during the last 5 years, its passage in 1977 of Minn. Stat. § 487.01, subd. 6, which is still intact today, and its enactment of Minn. Stat. § 2.722, subd. 4, in 1985, which remains unchanged despite reconsideration by the legislature last session.

We now focus our attention on the weighted caseload analysis as applied to the Second District.

THE WEIGHTED CASELOAD ANALYSIS AS APPLIED TO THE SECOND JUDICIAL DISTRICT

The Second Judicial District currently has a judicial and quasi-judicial complement of 32.2 positions, categorized as follows: 24.0 judges, 8.2 F.T.E. referees (3

*"Report of the (California) Advisory Committee to Review the Weighted Caseload System," April 1982.

**"Assessing the Need for Judicial Resources: Guidelines for a New Process," (Williamsburg, Virginia, the National Center for State Courts, 1982, p. 51).

assigned to juvenile matters, 3.7 to family court, 0.1 in probate court, and 0.9 in civil commitment matters) and 0.5 per diem conciliation court referees. This complement is one less than the Second Judicial District reported to the weighted caseload staff in 1980. The difference is due primarily to a reduction of 0.9 parajudicial staff from the judicial complement to eliminate the functions of the probate registrar from consideration as judge work.

In 1980, the Second District had a judicial need of 29.3 judges. By 1982, judicial need had dropped to 26.3, but began to rise again in 1983. By 1985, judicial need had grown to 30.5. The total increase in judicial need from 1980 to 1985 was 4%. However, a 10% increase was experienced between 1984 and 1985.

This rise in judicial need between 1984 and 1985 is a result of two factors: 1) a significant increase in case filings, and 2) SJIS reporting corrections. Between 1984 and 1985, filings increased in municipal court by 18.3 percent, in district court by 3.1 percent, and court-wide by 12.9 percent. The growth in case filings accounts for approximately two-thirds of the increased judicial need, or nearly two judicial positions, in 1985 over the previous year.

The balance of the 1984-85 increase in judicial need is attributable to corrections made by Second District staff to their original SJIS reports of civil case filings. In anticipation of this judicial vacancy decision, Second District staff examined its 1985 SJIS data and discovered that over the 1980-1985 period an increasing proportion of its civil case filings had been reported to SJIS as "other civil", rather than as a specific case type which frequently carries a heavier case weight. As a result, the staff reviewed the 9000 civil cases filed in Ramsey County in 1985 and submitted approximately 1000 corrections, changing cases from the "other civil" category to a specific case type. These corrections account for an increased indication of judicial need of approximately one judgeship in 1985 over the previous year.

In preparation for the May 9 hearing, SJIS staff reviewed these corrections and sent back to the Second District for verification approximately 25 errors, apparent from the case title, and 100 randomly selected corrections, representing a 10 percent sample. As a consequence of this audit, all apparent anomalies and some 8% of the sample group were found to be in error.* This represents approximately .25 of a judicial position that would not be justified according to the weighted caseload methodology. Consequently, the weighted caseload indicator of need is reduced by the corresponding amount to 30.25 judges. With a judicial complement of 32.2, the weighted caseload indicates that the Second Judicial District has 1.95 more judicial personnel than needed.

CRITICISMS OF WEIGHTED CASELOAD ANALYSIS

Representatives of the Second District state that Minnesota's weighted caseload system is the most pervasive, sophisticated, and detailed of any in the country. However, the District criticizes the weighted caseload in a number of respects.

The District claims that differences in procedures which courts follow throughout the state make the application of statewide case weights to individual districts invalid. The study conducted by the National Center for State Courts noted earlier in this memorandum recommended one standardized set of case weights to be applied uniformly to case filings; to do otherwise would tend to solidify the status quo. Rather than rewarding the relatively slower courts by adopting district by district weights, which no state has ever done, or severely penalizing some courts by adopting for statewide use the weights derived from just the most "efficient" courts as Wisconsin has done, Minnesota has followed the national recommendation and used a single statewide weight. Differing procedures are thus averaged together so that neither the slowest nor

*The Second Judicial District Administrator has also certified to the State Court Administrator's Office that it has reported one complaint per behavior incident in accordance with SJIS directives.

the fastest courts become the standard. The statewide weight is a policy determination central to the legitimacy of the weighted caseload system.

The second issue raised by the District is that the data reported to the Weighted Caseload and State Judicial Information Systems is in error and underestimates the need for judicial staffing. It claims that the clerical work organization and limited staffing of some districts, and the detailed nature of SJIS result in incomplete or inaccurate SJIS reporting, and thus, a misrepresentation of actual workload.* It further speculates that judges incorrectly reported during the 1980 time survey. Minnesota Statutes Section 480.17 provides that judicial and non-judicial personnel "shall comply with all requests made by the (state) court administrator * * * for information and statistical data." It is clear that the 1980 time-sampling period constituted such a request. SJIS reporting also falls within this statutory requirement. The SJIS reporting manuals, by Supreme Court rule, provide direction to trial court officials regarding completion of the reporting forms. The ultimate responsibility for accurate and complete reporting of judicial time and completion of SJIS forms rests with the judicial and non-judicial personnel in the various districts. Moreover, this argument is largely irrelevant to the instant case since the Second District performed an extensive review of its SJIS reports, resulting in a significant number of corrections and consequent increase in its indication of judicial need.

The District also argues that changes in the law or judicial procedures since the 1980 time survey diminish the accuracy of the weighted caseload. The number of new case types that have been created since 1980 have been few in number and generally have arisen from case types existing and weighted in 1980. The highest volume new case types and their originating category and current weight include: aggravated DWI

* It should be noted that the District argues both that some case types are not included and that SJIS reporting is too detailed and onerous to be accurate.

weighted as a gross misdemeanor; domestic abuse weighted as "other family"; and juvenile status offense weighted as a juvenile delinquency. While these case types were not timed separately in 1980, the weight assigned to them is that of the category under which they existed in 1980 or, in the case of the aggravated DWI, that of the higher offense classification to which it rose by virtue of legislation. It is probable that at least some of these weights overstate the average judicial time needed to dispose of a case of that type, thus actually benefitting the Second District. We recognize, however, that current weights may not fully account for new procedural steps within a limited number of existing case types, such as civil commitment.

It should be noted that some procedural changes which occurred during the period since 1980 tend to improve the Second District's weighted results. For example, the addition of administrative hearing officers in Ramsey County since 1980 has diverted some contested traffic matters from judges, yet these positions have not been counted toward the District's judicial complement, thus, benefitting the District. Suggestions of other changes in procedures claimed by the District to affect the weights were general in nature and speculative as to their impact.

It is further contended that population growth and density, presence of government and business centers, transportation patterns, economic conditions and numbers of attorneys are factors affecting judicial need, which are special considerations of the Second District, not accounted for by weighted caseload. We find this argument unpersuasive. Projections of the State Demographer's Office indicate that between 1985 and 2010, Ramsey County is expected to decrease by 10% from 461,000 to 415,000. The other non-population factors cited by the District as causing an increase in volume of filings or in their complexity are accounted for by the weighted caseload analysis. The number of filings is one of the three components of the weighted caseload system. The complexity of those cases is represented by the case weight, the second system component.

The District also claims that work performed by referees should not receive the same weight as does judge work. Weighted caseload does not discriminate between judges and quasi-judicial officers. Who does what work is not, and should not be, a factor in the methodology unless it is alleged that the work of the type which referees may perform within their statutory limitations is insufficient in volume to fully occupy their time, thus leaving referees idle. Such claim was not made.

Several of the District's additional contentions concerning the weighted caseload system we find to be incorrect. For example, it is argued that judges cannot be expected to be in the courtroom 6.5 hours per day for 197 days annually. Weighted caseload does not make such an assumption. In fact, the methodology measures courtroom time and non-courtroom case-related activities and, based on the actual time survey results, considers that 51% of case-related time is spent in the courtroom, an average of slightly more than 3 hours per day. It also is contended that not all judicial work is counted by the weighted caseload analysis. This claim is simply inaccurate: all judicial work was reported during the time survey, including judge review of referee orders and appeals from referee orders, and was factored into the case weight.

Similarly we find without merit the suggestion that judicial activity cannot be quantified or accurately timed. Attorneys and other professionals are able accurately to report time expenditures. The weighted caseload does not measure intangibles, such as efficiency of judges or districts or levels of justice delivered. Rather it measures the time actually spent by the state's more than 200 trial judges in handling judicial and quasi-judicial business. It is this method that produces the objective measurement of judge need required as a baseline for the equitable and cost-effective deployment of judicial resources.

Finally, the District claims that trial court consolidation, district practices which prompt early civil filings, and reporting errors of other districts undermine the

reliability of the weighted caseload. Since none of these factors affect the Second District, these arguments are not relevant to the decision at hand.

CONCLUSION

The Second District's judicial complement of 32.2 is 1.95 judicial positions greater than its weighted workload need, representing a 6.5% staffing surplus. While we find most of the District's criticisms of the weighted caseload system unpersuasive, we believe it prudent to act with due consideration for the perception that the weights are outdated, and in recognition that the judicial surplusage is a relatively small percentage of the District's total judicial resources. Additionally, the court notes the upswing in the District's case filings and the need to determine whether this trend will continue. Finally, as noted in our order of February 28, 1986 concerning the continuation of the Sixth Judicial District vacancy, it is the position of this court that elected judges are preferred over appointed quasi-judicial personnel. For these reasons, we hold that the vacancy occasioned by the retirement of the Honorable Edward D. Mulally shall be continued in the Second Judicial District as a district court judgeship and that the number of referees in the District shall be reduced by one full-time equivalent referee position on or before August 1, 1987, subject to reconsideration following the completion of the updated weighted caseload study later this year and its application to 1986 case filings.

The court commends the careful examination by the Second District of its SJIS reporting practices and its action to correct erroneous reports and to improve reporting procedures. We expect that all districts will recognize their obligations, mandated by statute and court rule, to report weighted caseload and SJIS information in a thorough, accurate and timely manner. The burden rests with the judicial district to ensure the accuracy of information reported.