

STATE OF MINNESOTA

IN SUPREME COURT

C9-85-1506

In re Fifth District  
Judicial Vacancy

Terminating Judicial Position in the  
Fifth Judicial District  
Transferring Judicial Position to the  
First Judicial District

WHEREAS, pursuant to the provisions of Minnesota Statutes 2.722, subd. 4 (1985, 1990), 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 Honorable Charles C. Johnson announced his intention not to seek re-election as District Court Judge in the Fifth Judicial District; and

WHEREAS, after notice given, a public hearing was held in the Blue Earth County Courthouse, Mankato, Minnesota at 10:00 AM, on July 10, 1990, the purpose of which was to consult with judges and attorneys of the affected judicial district to determine whether the continuation of the judicial position being vacated by the retirement of Judge Johnson is necessary for effective judicial administration; and

WHEREAS, the Court has considered the application of the weighted caseload study to the judicial needs of the Fifth Judicial District and the arguments made regarding the aforementioned judgeships and chambers designation within the district and has attached a memorandum which addresses these issues;

NOW, THEREFORE, IT IS HEREBY ORDERED:

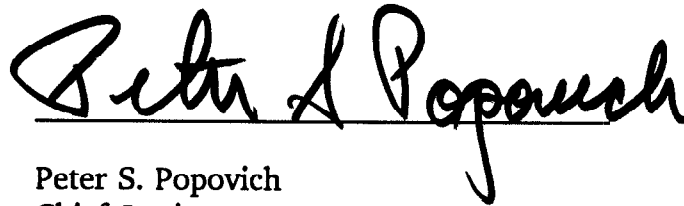
1. That the vacancy in the judicial position occasioned by the retirement of the Honorable Charles C. Johnson be, and hereby is, terminated in the

Fifth Judicial District, effective at midnight, January 6, 1991.

2. That the judicial position terminated in the Fifth Judicial District by the operation of this order be, and hereby is, transferred to the First Judicial District, chambers to be determined later, effective Monday, January 7, 1991.
3. That the vacancy transferred to the First Judicial District be, and hereby is, certified to the Governor as a district court judgeship to be filled in the manner provided by law.

Dated: July 13, 1990.

BY THE COURT



Peter S. Popovich  
Chief Justice

OFFICE OF  
APPELLATE COURTS

JUL 13 1990

FILED

## MEMORANDUM

On July 10, 1990, after public notice, this court conducted a hearing in the Blue Earth County Courthouse in Mankato, Minnesota, to determine whether to continue a vacancy created by the retirement of Judge Charles C. Johnson. Chief Justice Peter S. Popovich and Associate Justice Glenn E. Kelley, liaison to the Fifth Judicial District, presided at that hearing.

As we have stated previously, our overriding concern must be that all citizens of the state have adequate access to judicial resources. This court has previously conducted two such hearings in the Fifth Judicial District (In Re Fifth District Judicial Vacancies, Order of October 2, 1985; Order of In re Fifth District Judicial Vacancies, Order of April 14, 1987) where we have transferred three positions from the Fifth District to other districts in the state, and continued one judicial position with a transfer in chambers. More recently, this court continued a judicial position in Mankato without a hearing (Order Continuing Judicial Position in the Fifth Judicial District, Order of September 30, 1987), continued other positions in areas where we have previously determined that positions needed to be located, and transferred some chambers within the district upon request of the judges of the district.

The Supreme Court is charged with the responsibility under Minnesota Statutes § 2.722, subdivision 4, of determining the proper allocation of judicial resources to allow for the effective administration of justice throughout the State of Minnesota. The principle we have followed is that judicial positions should be allocated in accordance

with a rational method of demonstrated need. The tool we have relied on in assessing the need for judicial resources is the weighted caseload analysis.

We have previously expressed our confidence in the weighted caseload study's ability to objectively and systematically measure the need for judicial resources. The legislature has also shown confidence in the method by creating thirty-one new trial court judgeships since 1983 based upon findings of the weighted caseload study. We have also repeatedly expressed our intention to consider other factors in determining whether a judicial vacancy should be continued in place, abolished, or transferred. We have to date held eight hearings on eleven judicial vacancies, and have transferred four judicial positions.

Weighted caseload results for Blue Earth county

The weighted caseload analysis shows a need for 2.6 judicial positions in Blue Earth county, as shown in Table 1. Four judges are currently chambered there. There is thus one excess judicial position in Blue Earth county, according to the weighted caseload analysis.

Table 1. Weighted Caseload Judge Need - Blue Earth County and Fifth District 1986-90

Jurisdiction	Actual Judges	1986	1987	1988	1989	Year End 3/31/90
Blue Earth	4	2.7	2.7	2.8	2.7	2.6
District Total	18	13.7	13.4	13.8	14.3	14.3

The judicial need has remained relatively constant for Blue Earth county as well as for the district as a whole.

Blue Earth county has always had four judges, formerly one district court judge and three county court judges. Following consolidation of the trial courts in 1987, this court continued a position in Blue Earth county in order to give the district an opportunity to adjust to the loss of three judicial positions as well as the effects of unification. We noted that Nicollet county required additional judicial resources and expressed the hope that some of the excess judicial need in Blue Earth county would be used in Nicollet as well as to address problems of backlog and delay in the district as a

whole.

More recently, we approved the transfer of the chambers of Judge Richard Kelly from Brown county to North Mankato in Nicollet county. This has created a situation where Blue Earth county and three adjoining counties have a total judicial need for 5.6 judges where 8 judges are chambered. This is an excess judicial resource of 2.4 judgeships, or 43% (see Table 2). Two other adjoining counties, Brown and Martin, have a combined need of 2.5 judges with two chambered judges. If one judgeship were transferred, there would remain 0.9 excess judicial resources in the eastern part.

Table 2. Judge Need in Eastern Fifth District Counties

County	Actual Judges	Judge Need	Percent Excess
Blue Earth	4	2.6	54%
Faribault	1	0.8	25%
Nicollet	2	1.4	43%
Watonwan	1	0.8	25%
Total	8	5.6	43%
Brown	1	1.2	-17%
Martin	1	1.3	-23%
Total	2	2.5	-20%
Grand Total	10	8.1	23%

In addition, as shown in Table 3, there are further surplus judicial resources in

the western counties of the district which could be shifted eastward on a rotating basis, such that the surplus judge time in the western-most counties could be used periodically in the central counties, and the additional surplus judge time freed up in the central counties could then be made available for addressing Blue Earth county needs.

Table 3. Judge Need in Western Fifth District Counties

County	Actual Judges	Judge Need
Cottonwood	1	0.6
Jackson	1	0.7
Lincoln	0	0.3
Lyon	2	1.4
Murray	0	0.4
Nobles	1	1.2
Pipestone	1	0.6
Redwood	1	0.8
Rock	1	0.3
Total	8	6.3

The surplus judicial resources in the Fifth District are substantial (18 judgeships for a total weighted caseload need of 14.3) and would indicate that a position could be transferred from the district. At the Mankato hearing, however, several issues were raised which we have considered carefully in reaching this decision.

Other factors which may mitigate the weighted caseload

It was argued that the weighted caseload is dated, and should not be used. We re-emphasize that the weighted caseload figures are updated quarterly with new filing statistics. What has not been done since the end of 1986 is the weighted caseload survey of judicial time which establishes the case weights and judicial equivalent values used in calculating judicial time. The survey is only 3.5 years old, within the general guidelines for continuing relevance, and the weights remain valid; no new case types have been added since 1986.<sup>1</sup>

A second point raised was that the weighted caseload is flawed because it does not account for differential rates of trial between counties in the state. The trial rate for Blue Earth county is higher than for the state as a whole.

Researchers have failed to find a link between trial rates and case processing time.<sup>2</sup> That is, higher trial rates do not seem to be associated with delay in processing, or efficiency. Similarly, no link has been established between trial rates and judicial productivity, measured as the number of dispositions per judge. The National Center for State Courts, in the most recent and comprehensive multi-jurisdictional study of the management of trials, found that higher trial rates do not, of themselves, result in low disposition rates:

"One of the common tenets of the old conventional wisdom about court delay

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<sup>1</sup> In the juvenile area, CHIPS (Children in need of protection or services) cases have been defined by the legislature to include some delinquencies, some status offenses, along with dependency/neglect cases. The weighted caseload has not changed, however; the weights continue to be applied to the appropriate cases.

<sup>2</sup> See p. 51 in Barry Mahoney, et al. 1988. Changing Times in Trial Courts. Williamsburg, VA: National Center for State Courts.



was that courts could dispose of more cases, and deal with them more quickly, if the number of trials could be minimized. ... Findings from the Justice Delayed study case doubt on the proposition that high trial rates lead to longer case processing times; and findings from this study raise similar doubts. ...

There are some indications ... that felony jury trial rates may be associated with variance in judicial productivity, but the patterns are not clear. ... Portland and San Diego, both with relatively high jury trial rates, are also very speedy and very productive in terms of dispositions per judge." <sup>3</sup>

In Blue Earth county, the trial rate is high, but, as shown in Table 4, the disposition rate is low.

Table 4. Number of Dispositions Per Resident Judge Per Year 1986-89

	Blue Earth	State
Major Cases	358	634
Minor Cases	2,211	3,362
Total	2,568	3,996

On this basis, it can not be said that the higher trial rate in Blue Earth county demands additional judicial resources or requires it to be a factor in a weighted caseload methodology. Indeed, no other weighted caseload system in the county does

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<sup>3</sup> Mahoney, supra, footnote 2, at 50-52.

so. The research findings indicate that there does not exist a clear relationship between trial rates, case processing times and judicial productivity.

Even assuming that Blue Earth county requires four judgeships as a result of its trial rate and current practices, there exists 2.3 excess judgeships in the remaining counties of the district which do not have the high trial rate of Blue Earth county. As shown in Table 5, the total number of trials per judge in the other counties of the Fifth district is less than the statewide average.<sup>4</sup>

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<sup>4</sup> In addition, it should be noted that a greater percentage of court trials in these counties occur in minor cases, which can be assumed to require less judicial time than major cases.

Table 5. Number of Trials Per Resident Judge Per Year 1986-90

	5th District excluding Blue Earth County	State
Court trials		
Major Cases	20.8	32.3
Minor Cases	41.4	32.7
Total	62.2	65.0
Jury trials		
Major Cases	6.7	6.7
Minor Cases	4.3	4.8
Total	11.0	11.5
Total trials		
Major Cases	27.5	39.0
Minor Cases	45.7	37.5
Total	73.2	76.5

Testimony at the hearing suggested that California has developed an improved version of the weighted caseload incorporating trial rates into the formula. This is not correct. The California weighted caseload is actually a generation behind the Minnesota weighted caseload since California does not have a unified computer system which collects comparable caseload statistics on a statewide basis. The problem in California

has not been that the weighted caseload underestimates judicial need due to lack of incorporation of trial rates, but that judicial need is grossly overestimated in some jurisdictions, since caseload statistics are not comparably and reliably collected. In the absence of accurate, underlying case filing statistics on which to base a valid weighted caseload system, analyses of trial rates have been conducted in California in an attempt to provide a more realistic method of estimating the number of additional judges needed. The primary purpose of these analyses is not to justify existing judicial resources but rather to estimate the judicial resources necessary to dispose of vast backlogs of cases in some urban trial courts.

Another criticism of the weighted caseload was that DWI cases are categorized with other traffic cases and thus a weight of only 3.1 minutes is given for them. This claim was made for Blue Earth county only, not for the rest of the Fifth District. In fact, the traffic misdemeanor cases in Blue Earth county take an average of 5.0 minutes of judge time each; applying this weight to Blue Earth county would add only 0.2 to the judicial need.

A further issue raised was related to the impact of transferring a judgeship on the newly established Differentiated Case Management (DCM) system in Blue Earth county. There will certainly be a period of adjustment during which existing workload divisions will need to be reworked. Yet, adequate surplus judicial resources exist in adjoining counties within a reasonable distance to provide continuing judicial support to Blue Earth county as needed. In fact, the DCM system would seem to be ideal for utilizing assistance from judges from other counties. Visiting judges can easily be

assigned to master calendar cases, reserving the individual assignments for the resident judges.

Testimony was given regarding economic and demographic trends in Blue Earth county. While we are mindful of the increased judicial business that might result from an increase in population or commercial activity, we were offered evidence which was largely speculative. The State Demographer's Office has published analyses of population trends over the next twenty-five years which project an increase of approximately five percent in Blue Earth county, but an overall decrease in the rest of the district.

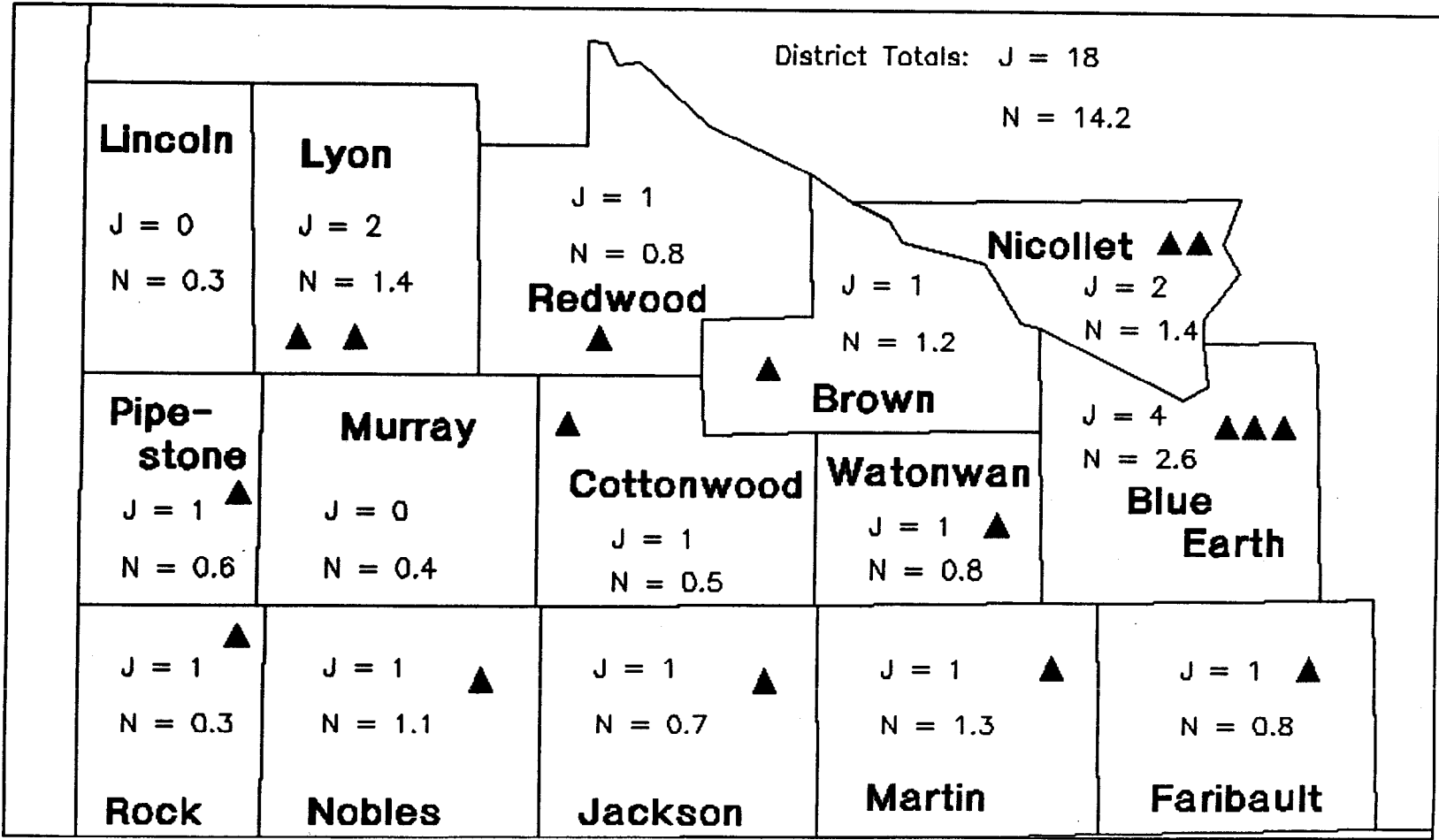
### Conclusion

When determining the fate of a judicial vacancy we have expressed our policy of consulting the weighted caseload analysis first and, if the position is unnecessary, placing upon the locality the burden of demonstrating that additional factors exist which would justify continuing the position in question. While several excellent arguments were made, we conclude that the quantity of surplus judicial resources in the Fifth Judicial District is so large as to make the judicial position unnecessary. Surplus judicial resources exist in adjacent counties which can be shifted to assist with the caseload in Blue Earth county. The other counties of the Fifth District do not collectively share the same situation of high rates of trial.

The basic principle underlying our decision is that judicial positions should be allocated and deployed in accordance with a rational method of demonstrated need.

This guiding philosophy underlies the action taken in the order accompanying this memorandum.

# 1989 Judicial Need and Resident Judges Fifth Judicial District



J - Number of Resident Judges  
N - 1989 WCL Judicial Need

▲ - Judge Placement with Access Adjustment

# Distances Between County Seats Fifth Judicial District

