

STATE OF MINNESOTA

IN SUPREME COURT

C9-85-1506

ORDER

In re Eighth District
County Court Vacancies

Continuing Judicial Positions
in the Eighth Judicial District
Designating Judicial Chambers

WHEREAS, pursuant to the provisions of Minnesota Statutes 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 on April 30, 1986 that vacancies in the Eighth Judicial District will occur as a consequence of the retirement of Judge Frederick M. Ostensoe and the disability retirement of Judge John N. Claeson, and

WHEREAS, the Supreme Court is empowered to designate chambers pursuant to Minnesota Statutes 480.22 after consultation with the judges in the affected district; and

WHEREAS, the Supreme Court has received a request from the Honorable John J. Weyrens that his chambers be moved from Montevideo in Chippewa County to Litchfield in Meeker County should the vacancy occasioned by the disability retirement of the Honorable John J. Claeson be continued within the Eighth Judicial District; and

WHEREAS, after notice, a public hearing was held in the District Courtroom in the Kandiyohi County Courthouse, Willmar, Minnesota, at 10:00 a.m., on May 28, 1986, the purpose of which was to consult with judges and attorneys in the affected judicial district to determine whether the continuation of the judicial positions being vacated by the retirements of Judge Ostensoe and Judge Claeson are necessary for effective judicial administration, and

WHEREAS, the Supreme Court has consulted with judges of the Eighth Judicial District concerning the designation of judicial chambers; and

WHEREAS, the Court has considered the arguments made regarding the continuation of the aforementioned county court judgeships and chambers designation within the district, and has attached to this order a memorandum which addresses these issues,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the chambers of Judge John J. Weyrens be, and hereby are, temporarily located at Litchfield in Meeker County and that after a period permitted for change of residence, not to exceed one year from the date of this order, Litchfield shall be designated his permanent chambers location.
2. That the vacancy in the judicial position occasioned by the retirement of Judge John N. Claeson be, and hereby is, continued in the Eighth Judicial District and chambered at Willmar in Kandiyohi County.

3. That the vacancy in the judicial position occasioned by the retirement of Judge Frederick M. Ostensoe be, and hereby is, continued in the Eighth Judicial District and chambered at Granite Falls in Yellow Medicine County.

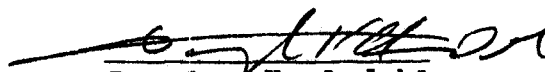
Dated: June 20, 1986

BY THE COURT

OFFICE OF
APPELLATE COURTS
FILED

JUN 20 1986

WAYNE TSCHIMPERLE
CLERK



Douglas K. Amdahl
Chief Justice

M E M O R A N D U M

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 issue before us is whether to continue two county court judgeships, to abolish them, or to transfer them to another location.

On April 30, 1986, the Governor notified the Supreme Court of the impending retirement of Judge Frederick M. Ostensoe, effective September 30, 1986, and of the disability retirement of Judge John N. Claeson, effective April 30, 1986. This notification triggered the provisions of the above statute.

On May 28, 1986, after public notice, a hearing was held in the District Courtroom in the Kandiyohi County Courthouse, Willmar, Minnesota. Chief Justice Douglas K. Amdahl, liaison justice to the Eighth Judicial District, presided at the hearing. Also sitting were Associate Justices Lawrence R. Yetka and George M. Scott.

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 Eighth Judicial District * * *." At the hearing, the application of the weighted caseload analysis to the Eighth Judicial District was presented by a representative of the State Court Administrator's office and that topic and other concerns regarding the vacated judgeships 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 weighted 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 spend 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 district.

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 Eighth District.

*"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).

WEIGHTED CASELOAD ANALYSIS AS APPLIED TO THE EIGHTH DISTRICT

The 1985 weighted caseload analysis as applied to the Eighth Judicial District indicates a need for 5.94 county judges and 3.22 district judges, for a total complement of approximately 9.2 judges. The thirteen counties of the Eighth District currently are authorized twelve judicial positions, consisting of nine county court judges and three district court judges.

Case assignments generally follow traditional geographic boundaries within the district. There are two basic assignment areas, even though by operation of a November, 1985 Supreme Court Order the county court and district court boundaries were made coterminous. The southern counties comprising assignment area "A" are Chippewa, Kandiyohi, Lac Qui Parle, Meeker, Renville, Swift and Yellow Medicine. A total of 6.5 judges, as indicated by the weighted caseload analysis, are required to dispose of the workload in this area, while a total of 8 judges are chambered there. The northern counties comprising assignment area "B" are Big Stone, Grant, Pope, Stevens, Traverse, and Wilkin. A total of 2.7 judges are needed according to the weighted caseload results, although 4 judges are actually chambered in this assignment area.

The retirements of Judges Claeson and Ostensoe result in two vacancies in assignment area "A". Judge Claeson's position is chambered in Litchfield in Meeker County, located in the extreme southeastern portion of the Eighth District. Judge Ostensoe is chambered in Granite Falls in Yellow Medicine County, at the southwestern corner of the district. The 1985 weighted caseload indicates the judgeship need is 1.0 in Meeker County and 0.6 in

Yellow Medicine. In both cases, the subject vacancies are the only judgeships assigned to their respective county. Thus, if the judgeships vacated by Judges Ostensoe and Claeson were to remain unfilled, the number of judges in assignment area "A" would drop from eight to six. This would leave assignment area "A" with 0.5 judgeships fewer than the 6.5 judges it needs to dispose of its workload according to the weighted caseload analysis. Moreover, if one or both of these vacancies were to be terminated, the already substantial number of counties without resident judges would increase accordingly.

The workload of the Eighth District has remained stable over the last six year period, never rising above a 9.6 indication of judgeship need. However, the workload of the district is heavily concentrated on its eastern borders. One-third of the district's entire workload is centered in the two eastern counties of Kandiyohi and Meeker. This concentration is expected to increase in the future.

POPULATION PROJECTIONS FOR THE EIGHTH DISTRICT

The state demographer projects that the population of the Eighth District will rise by 4% by the year 2010. Assignment area "A" will gain 7 percent, while assignment area "B" will lose approximately 4 percent. Population in Kandiyohi, Meeker and Pope counties is projected to rise over the next 25 years, while populations in all other counties are projected to fall. It is estimated that particularly large increases in population will be experienced by

Kandiyohi and Meeker counties; 25.5 and 17.3 percent, respectively, over the next 25 years.

DECREASE IN THE NUMBER OF JUDGES SERVING THE EIGHTH JUDICIAL DISTRICT

Since the passage of the Court Reorganization Act of 1977, the judicial complement of the Eighth District, by its own actions and by operation of various Supreme Court orders, has declined from 17 judges to 12 judges. On April 21, 1978, the Eighth District adopted a redistricting plan, one of the features of which was to assign two judges resident in Douglas County who were assigned to work in the county court district comprising Grant County, in the Eighth District, and Douglas County, in the Seventh District, to serve Douglas County exclusively and to be elected from an election district in the Seventh District. This action was ratified by a Supreme Court Order dated December 21, 1978, which also phased out a county court judgeship in Kandiyohi county upon the retirement of the incumbent. As a result, the judicial complement in the Eighth District was reduced from 17 to 14 judgeships by the fall of 1980 when the original weighted caseload survey was conducted.

Thereafter, on June 30, 1982, upon the elevation of former county court Judge John J. Weyrens to the district court of the Eighth District, the office of county court judge which he previously held in Lac Qui Parle County was terminated as a consequence of the further redistricting of the Eighth District.

Additional redistricting was ordered by the Supreme Court on November 20, 1985, making the boundaries of the county court districts in the Eighth District coterminous with district court boundaries, and terminating one further judgeship as a result of the redistricting order. This action left 12 authorized judicial positions in the Eighth District.

ACCESS TO JUDGES IN THE EIGHTH DISTRICT

The dominant concern raised by those testifying at the May 28 hearing was adequate access to judicial services in the Eighth District if one or both of the vacant judicial positions were to be terminated.

The Eighth Judicial District is the only district in the state in which there are fewer judges than there are counties in the district; with twelve judges and thirteen counties. Four of the thirteen counties -- Big Stone, Traverse, Lac Qui Parle and Pope -- do not have a resident judge.

The fact that four counties are without resident judges accounts for the significant amount of travel required of the judges of the district. Three of the twelve judges are using state-owned vehicles for their judicial travel. This indicates that these judges are traveling in excess of 1,000 miles per month, the minimum monthly mileage required to obtain a state car. A fourth judge is awaiting a state car for his use.

The increase in intra-district judge travel is primarily due to the loss of two judgeships since the weighted caseload survey was

conducted in 1980. The removal of the two judgeships increases the travel requirements of the 12 judges who have remained to at least some degree not currently accounted for by the weighted caseload analysis.

Just as important as the concerns for the time judges spend traveling is the time required of those seeking judicial services to travel to the judge. Many persons testified during the public hearing that while a judge might be available, it may be necessary for the parties, their counsel and witnesses to travel to another county where the judge is located to be heard. It was argued that a further reduction of judgeships would result in false economies in requiring four and five persons to take the time and incur travel costs in order to find an available judge outside of the county in which the matter is filed. Persons who wish to avail themselves of the judicial process should have reasonable access to judges, whether or not there is a resident judge in the county. Litigants, witnesses, law enforcement personnel, and court services employees, among others, should not with regularity be required to travel inordinate distances to have their judicial business transacted.

Finally, it is noted that the location of these specific vacancies makes the termination of one, if not both, of the positions problematic because of access concerns. If the Yellow Medicine judgeship were removed, four adjoining counties -- Traverse, Big Stone, Lac Qui Parle, and Yellow Medicine -- would be without a resident judge. The workload of Meeker County requires a full-time judge and there is no surrounding county capable of providing the necessary judicial time.

IMPACT OF INADEQUATE SUPPORT STAFF ON JUDGE PRODUCTIVITY

It also was argued by district representatives that differences in judge efficiency resulting from relative levels of support staff among judicial districts is not accounted for by the weighted caseload. County judges in the Eighth District have no court reporters, secretaries, or law clerks. We find it reasonable to conclude that Eighth District judges who are lacking particularly in law clerk support are unlikely to be as productive as judges in other districts who have such support.

JUDICIAL VACANCIES TO BE CONTINUED

The Eighth District's judicial complement of 12 judicial positions is 2.8 judgeships greater than its weighted workload indication of judge need. At the outset of this memorandum we noted that the burden shifts to the locality to demonstrate compelling reasons for the continuation of the judgeship in question 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. We find that the burden has been met as to the two vacancies currently at issue. It is clear that as a result of the reduction of two judgeships since 1980, there has been some increase in travel of the district's judges not accounted for by the weighted caseload analysis. Similarly, the district's lack of support staff, particularly law clerks, is recognized as reducing its judicial productivity by some degree. In that regard, the court notes the strong support by county

commissioners during the public hearing for the retention of the two judicial vacancies at issue. We encourage representatives of the Eighth District to seek county funding for support staff necessary to maximize the productivity of the judges of the district.

Most persuasive, however, are the access problems posed by the location of the particular vacancies in question. Removal of the position from Yellow Medicine, where there is a need for 0.6 judges, would leave nearly the entire western border of the district without a resident judge. Meeker requires a full-time judge with no surrounding county capable of providing the magnitude of judge time needed to deal with its workload should the current vacancy be terminated.

Finally, it is noted that recent reductions in judicial resources, due to the removal of one judgeship in November and the illness of Judge Claeson since last December, have made it difficult for the Eighth District to develop a competent, efficient and comprehensive assignment schedule to most effectively deploy its judicial resources.

Consequently, despite the weighted caseload indication of a judicial surplus in the Eighth District, we hold that the vacancies occasioned by the retirements of the Honorable Frederick M. Ostensoe and the Honorable John N. Claeson shall be continued in the Eighth Judicial District. This decision is reached primarily because of the geographic and resulting judicial access considerations involved in the two vacancies in question. In addition, the Court recognizes the dislocations which have occurred as a consequence of the numerous recent retirements and the loss of one judgeship last

November. We believe it appropriate to allow the District time to absorb these changes, to gain experience operating with a complement of twelve judges and to implement an assignment plan which most effectively utilizes the available judicial resources before further reductions are considered.

CHAMBERING OF JUDICIAL POSITIONS

The current deployment of judgeships in the Eighth Judicial District is not ideal. As noted earlier, there are four counties without a resident judge. In contrast, three counties of the district have two chambered judgeships, although the workload in two of those counties -- Chippewa and Stevens -- warrants less than one judge. In Chippewa County, where there resides both a district court judge and a county court judge, the weighted caseload indicates a need for 0.8 judgeships. Stevens County requires 0.6 judgeships although it also has two judges chambered there.

Kandiyohi is the third county in the district with two chambered judgeships. However, it has a weighted workload need for 2.23 judges or nearly one-quarter judgeship less than it is currently assigned. In addition, the court notes the presence of the state hospital at Willmar. Judges of Kandiyohi County handle mental commitment matters for that facility not only for Kandiyohi County, but for other counties in the district as well. Because these filings originally arise in other counties, work done by Kandiyohi judges on these cases is not credited as Kandiyohi County workload. It is estimated that approximately one day per month is required of Kandiyohi county judges in addition to the 2.23 weighted caseload

indication of need. Moreover, Kandiyohi County has experienced, and is projected to continue to experience, a sharp population growth in the future. Over the next 25 years, population will fall by 7% in the west end of the district, while the population of the eastern counties is expected to grow by a remarkable 20%. It is projected that Kandiyohi County, alone, will experience a 25.5% population growth rate over this period. A shift in population from the western counties to the eastern counties of the district is occurring.

In addition, the court has been notified of the willingness of the Honorable John J. Weyrens, currently chambered at Montivideo in Chippewa County, to relocate to Meeker County should the vacancy there be continued. On May 13, 1986 Chief Judge Richard Bodger ordered the temporary relocation of Judge Weyrens's chambers to Litchfield in Meeker County until such time as a permanent change in chambers can be accomplished.

We find that the occasion of the two vacancies in question presents this court and the Eighth District with the opportunity to improve the deployment of judicial resources within the district. After consideration of the weighted caseload analysis and population trends and, after consultation with the judges of the affected judicial district, we hold that: 1) the chambers of the Honorable John J. Weyrens shall be relocated to Litchfield in Meeker county and that, following the move of his residence within a period not to exceed one year, Meeker County shall be designated as his permanent chambers location; 2) the vacancy occasioned by the retirement of the Honorable John N. Claeson shall be continued as a county court

judgeship in the Eighth Judicial District and chambered in Willmar in Kandiyohi County; and 3) the vacancy occasioned by the retirement of the Honorable Frederick M. Ostensoe shall be continued as a county court judgeship in the Eighth Judicial District, chambered in Granite Falls in Yellow Medicine County.

The court notes that the operation of this order will leave only Stevens county with two chambered judgeships, despite a workload need of substantially less than one judge. It also is mindful that the Honorable Keith C. Davison, who is one of the two judges chambered in Stevens County, actually resides in Wheaton in the adjoining county of Traverse. Traverse is one of the four Eighth District counties without a chambered judge. It is further understood that the Traverse County Courthouse has been remodeled recently, thus, providing adequate judicial facilities in that location. The court urges prompt consideration within the district of the advantages to be gained from designating Judge Davison's county of residence, Traverse County, as his permanent chambers location. Such action would reduce from four to three the number of counties in the district without resident judges.

It is the expectation of the court that the continuation of the two judgeships in question and the redesignation of chambers as set forth herein will place the district in a stronger position to cope with the demographic shifts and workload changes occurring within the area and to improve the accessibility to judicial services throughout the district. Given the retention of these two judgeships we trust the district will shortly implement an effective plan for the liberal cross assignment of its judges to better

utilize its judicial resources to serve the public. The elimination of distinctions between the county and district courts, particularly in geographical dispersed areas such as the Eighth District, is the best solution for increasing the productivity of individual judges and for insuring adequate access to the judiciary throughout the district.