

STATE OF MINNESOTA
IN SUPREME COURT

C9-85-1506

In re Public Hearing on Vacancy
in a Judicial Position in the
Eighth Judicial District

ORDER

WHEREAS, the provisions of Minnesota Statutes Section 2.722, Subd. 1a (1985), prescribe certain procedures to determine whether a judicial position which is vacated by the retirement of an incumbent judge should be continued, transferred or abolished;

WHEREAS, the provisions of the above statute require the Supreme Court to consult with attorneys and judges in the affected judicial district to determine whether the vacant office is necessary for effective judicial administration, and, after making such determination, to decide whether to certify the vacancy to the Governor within 90 days after receiving notice of the retirement from the Governor; and

WHEREAS, Governor Rudy Perpich has notified the Supreme Court on September 27, 1990 that a vacancy in the Eighth Judicial District will occur as a consequence of the disability retirement of Judge Richard A. Bodger effective October 31, 1990; and

WHEREAS, 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, in determining whether to certify the vacancy in the above judicial position; and

WHEREAS, the Supreme Court wishes to hold a public hearing in the Eighth Judicial District and to receive relevant supplemental information regarding judges and judicial resource needs from attorneys and other interested persons at that time;

NOW, THEREFORE, IT IS HEREBY ORDERED that a public hearing be held in the Swift County Courthouse, Benson, Minnesota, at 2:00 p.m., on October 29, 1990;

IT IS FURTHER ORDERED that persons wishing to have the Supreme Court consider information concerning the continuation of the judicial vacancy described above shall file a written summary of such information and, if applicable, their desire to make an oral presentation at the hearing, with the Supreme Court at least five days before the hearing, at the following address: Clerk of Appellate Court, Room 245 Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155.

IT IS FURTHER ORDERED that persons who wish to obtain information concerning the weighted caseload analysis and its application to the vacancy in the Eighth Judicial District shall direct their inquiries to: Mr. Wayne Kobbervig, Room 120 Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155.

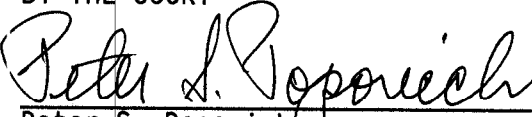
Dated September 28, 1990

OFFICE OF
APPELLATE COURTS

SEP 28 1990

FILED

BY THE COURT


Peter S. Popovich
Chief Justice

**OFFICE OF
LAC QUI PARLE COUNTY ATTORNEY**

JOHN M. TOLLEFSON, COUNTY ATTORNEY
KATHRYN SCHACHERER, LEGAL ASSISTANT

October 22, 1990

Clerk of Appellate Court
Room 245
Minnesota Judicial Center
25 Constitutional Avenue
St. Paul, MN 55155

RE: Vacancy - Judicial Position - Eighth Judicial District

Gentlemen:

I would like this letter to be considered as a written response to the vacancy in judicial position created by the retirement of Judge Bodger in Swift County. As Lac qui Parle County Attorney for the past eight years, I have dealt with reduced judge time in our county to the point where any further reduction causes a serious problem with our judicial system and the protection of our citizens from crime and disorder. Lac qui Parle County does not have a chambered judge and each year we see a erosion of actual judge days in our county. The judges who do serve Lac qui Parle County are under a tremendous burden when they appear in Lac qui Parle County. The problems with travel time and dealing with law enforcement and court personnel different from those they deal with in their chambered counties creates stress and causes delays in the administration of justice. Lac qui Parle County under the Weighted Case Load Survey is to have .4 judge in our county. We have far less than almost a one-half judge serving Lac qui Parle. It is my understanding that during the month of November, we have three days in which a judge is in Lac qui Parle County. The limited amount of time that a judge is in Lac qui Parle creates a situation where we do not have access to a judge's experience and knowledge in the law. Everyday questions come up in which myself and other county personnel wish to discuss with the judge. To talk to a judge who is chambered in another county is extremely difficult since so much of the time is spend in court. Even when a judge is in Lac qui Parle County, the court calendar is solid and there is very little chance of meeting with a judge. The effect of this situation is that the personnel in Lac qui Parle county and myself must make decisions without the aide of a judge's advice. I believe that law enforcement will eventually suffer from our continuing and increasing lack of judge time in Lac qui Parle county.

It is my belief that if the judgeship in Swift County is not filled that not only will Swift County face the problems that Lac qui Parle County now faces, but that Lac qui Parle County problems will

Office Addresses:

P.O. Box 269, 727 6th
Dawson, MN 56232
612/769-4498

Courthouse
Madison, MN 56256
612/598-7733

**OFFICE OF
APPELLATE COURTS**

OCT 26 1990

FILED

PRESS RELEASE

Hearing on Judicial Vacancy

The President of Twelfth District Bar Association John Tollefson is encouraging all citizens to urge the Minnesota Supreme Court to fill the vacancy in Swift County Judge Richard Bodger. The vacancy will take place on October 31, 1990 and will not be filled unless the Supreme Court determines that there is a need for the position to be filled. The Supreme Court will hold a public hearing in the Swift County Courthouse in Benson, Minnesota, at 2:00 P.M. on October 29, 1990. Tollefson urges all of the citizens who are concerned with the limited time a judge spends in Lac qui Parle County, the difficulties we have in not having a judge readily accessible to our county, and the fact that less judge time will be available to Lac qui Parle citizens as our current two judges, Judge B. W. Christopherson and Judge Marquis Ward, will be required to spend more time in Swift County and less time in Lac qui Parle County, to write their concerns and mail them to Clerk of Appellate Court, Room 245, Minnesota Judicial Center, 25 Constitutional Avenue, St. Paul, MN 55155. The Twelfth District Bar Association with the Sixteenth District Bar Association are coordinating efforts between attorneys, court personnel, legislators, county commissioners, and other interested parties to respond to the vacancy. Tollefson also urges all interested citizens to appear at the public hearing to show support for filling the judicial vacancy.



LAW OFFICES OF
REISHUS, HOLMSTROM & KVAM

685 Prentice Street - P.O. Box 70
Granite Falls, Minnesota 56241

Granite Falls, Minnesota
612-564-3825
Sacred Heart, Minnesota
612-765-2263
Echo, Minnesota
507-925-4133
Fax. No. 612-564-4825

K. S. Reishus
Gregory L. Holmstrom
Spencer H. Kvam

October 23, 1990

**OFFICE OF
APPELLATE COURTS**

OCT 25 1990

FILED

Clerk of Appellate Court
Room 245
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Dear Sir/Madame:

RE: Public Hearing on Vacancy in a Judicial Position
in the Eighth Judicial District
FILE NO. C9-95-1506

Pursuant to the Court's Order of September 28, 1990, I am writing to request the opportunity to make an oral presentation at the hearing scheduled for October 29, 1990, at 2 p.m., at the Swift County Courthouse in Benson.

I would like the opportunity to address the Court from the perspective of an assistant public defender and general practitioner practicing in the areas of family law at all levels, commitment proceedings, juvenile law, and related. As a representative for numerous indigent individuals, as well as a representative of a small municipality's police department (city attorney), I deal daily with the logistical problems of bringing clients before the Court from various distances under numerous time limitations and restrictions.

As a city attorney in a county which does not possess a jail, I am also familiar with difficulties encountered by law enforcement in transporting prisoners to and from Court. I would like to address certain specifics as to access difficulties that are currently experienced, and that can only be exaggerated by a decision to not fill the position in question.

Very truly yours,

REISHUS, HOLMSTROM & KVAM

Gregory L. Holmstrom

jme



CITY OF BRECKENRIDGE

420 NEBRASKA AVENUE
BRECKENRIDGE, MINNESOTA 56520
TELEPHONE (218) 643-1431

October 23, 1990

Clerk of the Appellate Court
Room 245, Minnesota Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155-6102

Dear Sir:

The Breckenridge City Council passed a resolution on October 15, 1990, that confirms their opposition to any consideration of terminating a judgeship position in the Eighth Judicial District.

When Judge Bodger retires it is imperative that his judgeship be filled in the Eighth Judicial District. The backlog of cases will increase the amount of time that judges will spend in other parts of the district, and that is not suitable to us. The Court system needs to be available to our citizens on a timely, convenient, and economical basis.

Please consider leaving the judgeship in the Eighth Judicial District, this would mean a great deal to the citizens of Wilkin County and the City of Breckenridge. Thank you for your time and cooperation.

Sincerely,

Blaine C. Hill
City Clerk-Treasurer

jlg

OFFICE OF
APPELLATE COURTS

OCT 25 1990

FILED

RESOLUTION NO.

A RESOLUTION OPPOSING THE TERMINATION OF A JUDGESHIP IN THE EIGHTH JUDICIAL DISTRICT.

WHEREAS, the Breckenridge City Council has been informed of the medical retirement of Judge Bodger from Benson, Minnesota.

AND WHEREAS, Judge Bodger's judgeship is in the Eighth Judicial District that serves Breckenridge, Minnesota.

AND WHEREAS, there will be a hearing to discuss the possible termination of this judgeship in the Eighth Judicial District and the moving of the judgeship to a metro-area Judicial District.

AND WHEREAS, the result of the movement of said judgeship will result in a backlog of cases and possible increase in court costs.

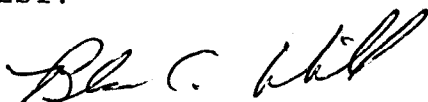
NOW THEREFORE, Be It Resolved by the City Council of the City of Breckenridge, Minnesota:

That the Breckenridge City Council opposes the termination of said judgeship in the Eighth Judicial District.

Adopted this 15th day of October, 1990.


MARVIN O. ANDERSON, Mayor

ATTEST:


BLAINE C. HILL, City Clerk-Treasurer

RICHARD S. ROBERTS

TELEPHONE:
812-563-8155

ATTORNEY AT LAW
BROADWAY OFFICE BUILDING
P. O. BOX 25
WHEATON, MINNESOTA 56296

FAX NO:
812-563-8156

OFFICE OF
APPELLATE COURTS

OCT 20 1990

FILED

October 18, 1990

Supreme Court
State of Minnesota
230 State Capitol Building
St. Paul, MN 55155

RE: Public Hearing/Vacancy Judicial
Position/Eighth Judicial District

Gentlemen:

I am writing to express my concern over the possible loss of a judicial position in the Eighth Judicial District, in the event I am unable to attend the hearing set for October 29, 1990 at Benson, Minnesota.

Commencing the year 1981, I have been a sole practitioner in the City of Wheaton, and have also served as City Attorney for the City of Wheaton during this period. Approximately ninety percent (90%) of my practice consists of civil litigation utilizing all of the attending pretrial procedures, and approximately fifty percent (50%) of this takes place within the confines of the Eighth Judicial District. I thus have a vital interest in convenient access to the Judge's Chambers within the Eighth District, as does the clientele I serve.

Until very recently, Judge Keith Davison resided in the City of Wheaton, which afforded me limited access to his presence and enabled me to keep advised of his schedule through his Court Reporter and the Court Administrators in the various counties in which he presided, but he has now moved to Morris, Minnesota, so my office is presently thirty miles plus distant from any Judge, excepting the four days per month when Judge Bruce Reuther, who primarily handles probate, criminal and juvenile matters, presides in Traverse County.

My modest income and the fruits of my labors to my clientele in disputed matters, depend for the most part on how quickly matters can be brought to trial before the District Courts and any vacancy in the ranks of the present judiciary, within the Eighth Judicial District, would indeed seriously effect the interests of both myself and my clientele.

RICHARD S. ROBERTS

TELEPHONE:
612-563-8155

ATTORNEY AT LAW
BROADWAY OFFICE BUILDING
P. O. BOX 25
WHEATON, MINNESOTA 56296

FAX NO:
612-563-8156

October 22, 1990

OFFICE OF
APPELLATE COURTS

OCT 24 1990

FILED

Supreme Court
State of Minnesota
230 State Capitol Building
St. Paul, MN 55155

RE: Public Hearing/Vacancy Judicial
Position/Eighth Judicial District

October 18, 1990 Amended Letter

Gentlemen:

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Page 2

October 22, 1990

RE: October 18, 1990 Amended Letter

Despite the valiant efforts of the architects of the "weighted case load study" to somehow by the law of averages, measure the efforts and accomplishments of each Judge, it is impossible to make an accurate evaluation, given all of the variables confronting each Judge from the various judicial districts throughout the state. From my own perspective, having served on the bench a decade ago, I am convinced that our troubled and litigious society is making increasingly greater demands on the Courts and I am sure that this is true throughout the State.

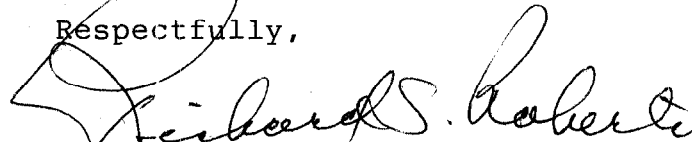
The commencement of my law practice in the City of Wheaton, I will be the first to admit, has substantially increased the work load of all the Judge's in the Eighth Judicial District and with the addition of another attorney in my firm, will continue to increase.

At approximately the same time my office opened in the City of Wheaton, another law office was opened in the City of Appleton by Attorney Brian Wojtalewicz and unless I am mistaken, I believe that Mr. Wojtalewicz's practice is similar to my own, except that his has proliferated to a greater extent than mine.

Assuming that the work load for the Judge's in the Eighth Judicial District was correctly assessed back in 1980 and 1981, it is presently very difficult to believe that there are now too many Judge's considering the increased burden brought about just simply by my office and by Mr. Wojtalewicz's organization, together with numerous other new law offices throughout the Eighth Judicial District.

I most sincerely believe that there now exists a crying need for more Judge's in the District and I would vigorously oppose the loss of any Judgeship at the present time.

Respectfully,

A handwritten signature in cursive script that reads "Richard S. Roberts". The signature is written in dark ink and is positioned above the printed name.

Richard S. Roberts

RSR:mmw

Wilkin County, Minnesota

TIMOTHY E.J. FOX, COUNTY ATTORNEY

TELEPHONE (218) 643-8950
P.O. BOX 214
BRECKENRIDGE, MINNESOTA 56520



October 22, 1990

Clerk of Appellate Court
Room 245 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

OFFICE OF
APPELLATE COURTS

OCT 24 1990

RE: Vacancy in Eighth Judicial District

C9-85-1506

FILED

Dear Sir:

The Wilkin County Board of Commissioners has had an ongoing interest in the Court system for the past number of years. It is the position of Wilkin County that a loss of a judicial position would severely hinder access to the Court system by the constituents of Wilkin County.

The Wilkin County Board of Commissioners hereby requests the Supreme Court to replace the vacancy of Judge Bodger to insure equal access to the judicial system. It is further felt that the elimination of judges in the Eighth District will shift a substantial cost and inconvenience to all individuals dealing with the Court.

Thank you for your consideration in this matter.

Very truly yours,

Timothy E. J. Fox
Wilkin County Attorney

bjo



District Court of Minnesota

EIGHTH JUDICIAL DISTRICT

KANDIYOHI COUNTY COURTHOUSE
P. O. BOX 1337
WILLMAR, MINNESOTA 56201
TELEPHONE (612) 231-6206
FAX NO.(612) 231-6276

ARTHUR J. BOYLAN
JUDGE OF DISTRICT COURT

October 22, 1990

The Honorable Peter S. Popovich
Chief Justice
Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

The Honorable A. M. Keith
Associate Justice
Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

OFFICE OF
APPELLATE COURTS

OCT 24 1990

FILED

In Re: Vacancy in a judicial position C9-85-1506
in the Eighth Judicial District

Dear Justices:

I would like to have the opportunity to make an oral presentation at the sunset and transfer hearing scheduled in Swift County on October 29, 1990.

My concerns center on the Eighth District's "access adjustment" figure as reflected in the Weighted Caseload results and the problems associated with providing judicial resources to a dispersed rural population.

Thank you.

Respectfully yours,

Arthur J. Boylan
Judge of District Court

AJB:df

cc: ~~Clerk of Appellate Court~~
Room 245 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

JOHN W. RICHES, II, P.A.
ATTORNEY AT LAW

October 22, 1990

Clerk of Appellate Court
Room 245
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

OFFICE OF
APPELLATE COURTS

OCT 24 1990

FILED

RE: EIGHTH JUDICIAL DISTRICT C9-85-1506
JUDICIAL VACANCY HEARING

Gentlemen:

The purpose of this letter is to indicate my desire to make an oral presentation at the hearing in the above-entitled matter scheduled for Monday, October 29, 1990 at 2:00 p.m. at the Swift County Courthouse, Benson, Minnesota.

My comments will focus on the argument that reliance upon the weighted caseload study 1990 need statistics alone is inappropriate for two reasons: First, it ignores the five-year history of need in Swift County; and secondly, does not take into account the future impact of the Prairie Correctional Facility to be built in Appleton.

A. Five-Year History.

Historically, Swift County has shown a need for a resident judge. In 1986 the need was .8; in the years 1987 through 1989 the need was a constant .7; and only in 1990 does the need drop to .6.

In each of the three periods Swift County was served by a different county attorney. In 1986, John W. Riches II was county attorney; from 1987 through 1989 Harold C. Lucking was county

REPLY TO: P.O. BOX 113, APPLETON, MINNESOTA 56208

(612) 289-2022

OR P.O. BOX 329, BENSON, MINNESOTA 56215

(612) 843-4266

JOHN W. RICHES, II, P.A.
ATTORNEY AT LAW

attorney; and for most of 1990, David L. Mennis has been county attorney.

An inescapable fact is that the county attorney's level of activity has a significant impact upon the judicial caseload. The variance from 1986 to present can be attributed to a number of factors such as differing charging standards, the cyclical nature of the work, the various transitional periods, and the current county attorney's relative lack of experience.

In any event, to focus on a single year's need analysis disregards the competing influences which may temporarily have reduced the apparent need. As such, the 1990 weighted caseload need analysis for Swift County, standing alone, may not be statistically significant and may, in fact, be unreliable.

Therefore, any analysis of judicial need in Swift County must take into account the historical pattern, at least since 1986, which demonstrates a need in Swift County in excess of .7.

B. Prairie Correctional Facility.

Secondly, the weighted caseload study does not take into account the impact on judicial need of the prison being built in Swift County.

The City of Appleton is undertaking as an economic development project the construction of a prison facility which is expected to open in February, 1992. The bond closing is tentatively scheduled for October 30 and 31, 1990 and construction may well be underway within a week after the date of this hearing.

The first phase of the project consists of a 494-bed medium

JOHN W. RICHES, II, P.A.
ATTORNEY AT LAW

security prison. The City will contract with sentencing jurisdictions across the country to house overflow inmates. Plans call for a doubling of capacity within two years of completion of the first phase. The feasibility study has demonstrated a need in excess of 2500 beds nationally.

That a correctional facility contributes to increased law enforcement and judicial demand has been recognized by the State Legislature. Minn. Stat. Sec. 241.271, provides that:

The department of corrections shall include in its budget requests such amounts as may be claimed by any county or municipality necessary to reimburse said county or municipality for expenses of a county attorney or sheriff or municipal police department resulting from activities involving inmates of state correctional institutions located in its county or municipality.

While it is difficult to project with any degree of certainty the impact of this facility, there is information available which indicates that the caseload will increase dramatically.

First, the facility will create 150 new jobs, many, if not most of which will be filled by persons moving into the district. This is due to the fact that the current unemployment figures are quite low. A national study has shown that this type of direct employment creates the need for 1.5 indirect jobs for every direct job created. The employment levels generated by this project, both direct and indirect, will increase the local population and cannot help but result in an increased caseload.

Secondly, based on its experience in contracting with out-of-state jurisdictions the Department of Corrections has advised the City to expect that a significant number of inmates will be

REPLY TO: P.O. BOX 113, APPLETON, MINNESOTA 56208

(612) 289-2022

OR P.O. BOX 329, BENSON, MINNESOTA 56215

(612) 843-4266

JOHN W. RICHES, II, P.A.
ATTORNEY AT LAW

difficult to manage; and that internal disturbances will surely occur.

Pursuant to the Interstate Correctional Compact, (Minn. Stat. 241.29) the receiving state has jurisdiction over incidents occurring in that state. Further, the Interstate Corrections Compact contemplates that Minnesota may be required to provide personnel and facilities for judicial proceedings these inmates are entitled to in their home jurisdiction. As such, the very nature of the inmates and their back-home problems will very likely lead to an increased caseload in Swift County.

Third, the developer has advised that the City can expect two or three civil suits each month by inmates against the facility. These actions will run the gamut from complaints about the food to dissatisfaction with administrative procedures. Obviously, most, if not all, of these matters are likely to be frivolous, but neither Rule 11 sanctions nor Sec. 549.21 bad faith claims are likely to have much preventative effect on indigent inmates from foreign jurisdictions.

Fourth, the Washington County Court Administrator tells us to expect a dramatic increase in caseload. The County Attorney and LAMP reveal that the 1800 prison inmates in Washington County generate approximately 40 criminal cases and 340 civil cases per year. These types of cases would include smuggling, writs of detainer, divorce and other family law matters, name change, and the like. In addition, the court administrator says that there is considerable conciliation court activity among the inmates.

JOHN W. RICHES, II, P.A.
ATTORNEY AT LAW

Given the Washington County experience of approximately one case for every five inmates each year, and the developer's estimate of 25-30 inmate v. facility lawsuits per year, it is reasonable to expect that the facility will result in about 125-130 new cases per year; not counting the conciliation court activity.

C. Conclusion

Except for undue reliance on a single year's results, the weighted caseload study is a fine statistical measure of historical need for judicial resources. Ordinarily historical need is an acceptable tool for use in forecasting future need and even trends.

However, every once in a while something comes along that makes the historical data unreliable for forecasting purposes.

In this case, that something else is called the Prairie Correctional Facility.

Accordingly, to transfer this judicial position will have disastrous consequences for the Eighth Judicial District.

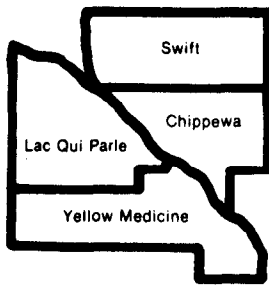
Thank you for your consideration of these comments.

Very truly yours,


John W. Riches II

JWR II:sar

2/B:judicial.ltr



6W DEPARTMENT OF COMMUNITY CORRECTIONS

1215 Black Oak Ave., Box 551 • Montevideo, Minnesota 56265 • 612-269-6513
Steven M. Ulmen, Program Director
Rose Mary Lens, Financial Administrator

Ron Tschaekofske, Career Agent
Caye E. Carruth, Senior Corrections Agent

October 17, 1990

OFFICE OF
APPELLATE COURTS

OCT 23 1990

FILED

Clerk of Appellate Court
Room 245
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155-6102

Re: Public Hearing on Vacancy
in a Judicial Position in
the Eighth Judicial District

Gentlemen:

This letter is sent on behalf of 6W Department of Community Corrections to urge that the judicial position in the Eighth Judicial District, which is becoming vacant as a result of the medical retirement of the Honorable R. A. Bodger, be retained in the Eighth Judicial District. Although we are mindful of the weighted case load study which indicates that there may be a surplus of judicial positions in this district, we believe that there are overriding geographical and access considerations which should be taken into account.

As you know the Eighth Judicial District consists of thirteen rural counties in west central Minnesota. The district covers a large land area and is, relatively, sparsely populated. At the present time the five counties in the southeasterly portion of the district (Meeker, Kandiyohi, Renville, Chippewa

and Yellow Medicine) have seven of the twelve judges. The remaining eight counties, which constitute the majority of the land area, have, at present, only five judges. If Judge Bodger's position is not filled, there will be but four judges covering those eight rural counties.

Such an arrangement would result in substantial and unproductive travel time for our relatively highly compensated judges. It would also place significant and costly burdens on everyone connected with the judicial system in this district. Law enforcement will have increased difficulty in terms of obtaining access to a judge for Orders, search warrants and the like. Law enforcement will be required to use increasing amounts of law enforcement time for the unproductive purpose of transporting prisoners. That, in turn, will have the effect of reducing time available for protection of the citizenry in the district or, alternatively, will require the hiring of substantial additional personnel - a situation which already restricted county budgets certainly wish to avoid.

So far as this agency is concerned, our agents are already overburdened in terms of their caseloads. To the extent a judicial position is eliminated, these agents will be required to devote additional time to travel to hearings. That, of course, will only make it more difficult for them to properly supervise their probationers and complete their pre-sentence investigations in a timely fashion and, generally, perform the functions for which they are trained - and upon which the criminal justice system depends to expeditiously process and supervise criminal defendants.

The reduction of a judicial position not only adversely affects law enforcement and this agency - but also individual litigants and their attorneys. If the number of judges is further reduced attorneys will, no doubt, be required to incur additional time in traveling to a location where a judge can be found. That expense will, necessarily, be passed along to their clients who will similarly be adversely affected in terms of time and expense because of decreased judicial availability.

In the final analysis then, although the cost of maintaining the judiciary in the district may be reduced by the elimination of a position, the loss of access, together with the direct and indirect expenses to the users of the system will be increased far beyond any administrative savings which may be achieved. We

October 17, 1990

therefore respectfully request that the geographical makeup of the district and the need of its citizenry for access to the judiciary be considered, and that the position of the Honorable R. A. Bodger be retained.

Eugene House

Yellow Medicine County Commissioner

Walter Gades

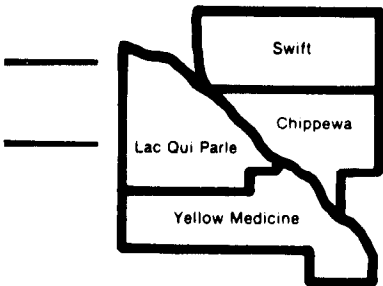
Chippewa County Commissioner

Dale Spray

Swift County Commissioner

LeRoy Jans

Lac qui Parle County Commissioner



6W DEPARTMENT OF COMMUNITY CORRECTIONS

1215 Black Oak Ave., Box 551 • Montevideo, Minnesota 56265 • 612-269-6513
Steven M. Ulmen, Program Director
Rose Mary Lens, Financial Administrator

Ron Tschaekofske, Career Agent
Caye E. Carruth, Senior Corrections Agent

October 17, 1990

OFFICE OF
APPELLATE COURTS

OCT 19 1990

FILED

Clerk of Appellate Court
Room 245
MN. Judicial Center
25 Constitution Avenue
St. Paul, MN. 55155

C9-85-1506

To Whom It May Concern:

On behalf of 6W Community Corrections, I wish to offer testimony before the sunset committee to retain the Swift County judgeship position scheduled for October 29, 1990 in Benson, MN. The text of my presentation is as follows:

It is our understanding that the Swift County judgeship soon to be vacated by the retiring Hon. R.A. Bodger is not scheduled for replacement. Such action will create a hardship for 6W community corrections and the offenders we supervise, and will make it extremely difficult to provide timely judicial services to residents of Swift and surrounding counties.

6W records indicate that 343 court hearings were held in Swift county involving our juvenile, misdemeanor, gross misdemeanor, and felony clients during the time period from January 1, 1989 through June 30, 1990. These hearings were for the purposes of intake, probation violations, new offenses, case reviews, to satisfy warrants and orders to show cause, and for direct sentences to jail or prison. Without a chambered judge in Swift county, delays in the processing of these matters will occur until a judge from a surrounding area can be scheduled to hear them. As the Court is aware, the exacting time frame requirements for juveniles and adults in custody to appear before the Court cannot be compromised.

In addition to the current activity, a new juvenile detention center is scheduled to open in Kandiyohi county in the near future. Swift county's active juvenile caseload will undoubtedly be reflected in regular use of the detention center, with all the court hearings that accompany detention issues. In addition, a private prison facility is being built in Appleton, Mn., which lies within Swift county. Both of these facilities will create demand for additional court time in Benson, to an extent as yet unknown.

Keeping these issues in mind, 6W community corrections recommends that the judgeship vacancy in Swift county be filled. Thank you for your time and interest in this matter.

Sincerely,
Steven M. Ulmen
Steven M. Ulmen, Program Director

Rep. Sylvester Uphus

District 15A

Pope, Stearns Counties



**Minnesota
House of
Representatives**

COMMITTEES: AGRICULTURE; ECONOMIC DEVELOPMENT; TAXES; TRANSPORTATION

OFFICE OF
APPELLATE COURTS

OCT 23 1990 October 19, 1990

FILED

The Honorable Peter S. Popovich
Chief Justice of the Minnesota Supreme Court
Care of the Clerk of Appellate Court
Room 245 Minnesota Judicial Center
25 Constitution Avenue, St. Paul, MN 55155

Re: File C9-85-1506

Dear Judge Popovich:

I am writing to request an opportunity to speak on behalf of those of my constituents residing in the Eight Judicial District at the "Sunset and Transfer" hearing scheduled for October 29, 1990.

During my tenure with the legislature, I have frequently supported legislation designed to bring judicial proceedings concerning those confined under our juvenile, criminal, and civil commitment laws to a swift conclusion. Both justice and human decency require that the deadlines built into these laws be strictly observed.

It is my belief that these laws were enacted with the legislature's full knowledge and understanding that the timelines imposed by the legislature might cause inconvenience in the scheduling of other judicial matters.

Given concern both about the lack of public input on the "sunset and transfer" law and a projected raid on the rather limited judicial resources of the eighth judicial district, I joined Representative Terry Dempsey in authoring a 1986 bill to repeal the "sunset and transfer" law. House File 1797 was heard by the Judiciary Committee of the Minnesota House of Representatives on February 26, 1986, and testimony was given by a number of judges, including then Chief Justice Amdahl. At that meeting, Justice Amdahl assured representatives of less populous areas that the "Sunset and Transfer" authority would not be used to transfer rural judicial positions away from counties having only one judge. His statement was as follows:

"I wish to underscore a fundamental principle that has guided us. We have not yet, nor will we in the future, transfer judges from districts where they are needed to other districts where there are greater needs.

In the three situations I have described, a resident judge remained chambered in the county in which the vacancies arose. That fact alleviated the judges' concern about access to judges by law enforcement personnel and the public in general.

We have not yet been faced with a situation that would involve a vacant judgeship where the transfer would result in removing the only sitting judge from that county.

I can assure you that if this condition were to appear, the Supreme Court would be extremely concerned about access to remaining judicial resources.

Chief Justice Amdahl also promised the committee that the Court would work with the Legislature to refine the "weighted case load" study. Following this presentation, the committee amended the bill so that it instead became a moratorium on the "sunset and transfer" language pending an update in the weighted caseload and further legislative review. House File 1797 subsequently passed the House of Representatives by a vote of 74 to 48.

It distresses me that it is now 1990, and there still have been no non-adversarial public hearings regarding the merits of the weighted case load study and its proper application to the allocation of judicial resources. It should also concern the Court, since I believe that the vote on House File 1797 represents something less than universal support for the tremendous weight accorded the caseload study by the Court in past "sunset and transfer hearings."