

NORTH DAKOTA SUPREME COURT

In re the Chambering of a New Judgeship in the Northwest Judicial District

770 N.W.2d 221 (N.D. 2009) · Decided July 15, 2009

SUMMARY

The North Dakota Supreme Court designated a newly authorized district judgeship in the Northwest Judicial District as Judgeship No. 9 and assigned its chambers to Minot, North Dakota. The court considered weighted caseload data, attorney distribution, facilities, travel, population, detention and human-service resources, and the recommendation of the district's presiding judge before ordering the designation.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Gerald W. Vande Walle, Chief Justice; Mary Muehlen Maring; Dale Y. Sandstrom; Carol Ronning Kapsner; Daniel J. Crothers
JURISDICTION	North Dakota
DECIDED	July 15, 2009
DISPOSITION	other
PROCEDURAL POSTURE	The North Dakota Supreme Court considered the proper location for chambers of a newly authorized district judgeship after receiving a district report recommending Minot and a petition advocating Stanley.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion

TOPICS

administrative law

civil procedure

PRACTICE AREAS

judicial administration

administrative law

civil procedure

QUESTIONS PRESENTED

1. Where should the chambers of the newly authorized district judgeship in the Northwest Judicial District be located under the criteria of N.D. Sup. Ct. Admin. R. 7.1?

2. Would chambering the new judgeship in Minot comply with the statutory limitation on the percentage of district judges chambered in cities with populations over 10,000?

HOLDINGS

1. The new judgeship, designated Judgeship No. 9, must be chambered in Minot, North Dakota.
2. Chambering the new judgeship in Minot complies with N.D.C.C. § 27-05-08.

KEY QUOTATIONS

“IT IS HEREBY ORDERED, the new judgeship in the Northwest Judicial District is designated Judgeship No. 9, with chambers in Minot, North Dakota, to be filled in the manner provided by N.D.C.C. Chapter 27-25.” (¶ 19)

FACTUAL BACKGROUND

The Legislature authorized an additional district judge for the Northwest Judicial District and empowered the Supreme Court to designate the judge's chambers. The district's weighted caseload study showed a continuing shortage of judicial resources, with the largest population and caseload concentrations in Ward County and the Minot area. The district's presiding judge and all district judges favored Minot, which had greater attorney concentration, facilities, detention and human-service resources, and transportation access than Stanley.

PROCEDURAL HISTORY

The 2009 Legislative Assembly authorized an additional district court judge in the Northwest Judicial District and directed the Supreme Court to assign the judgeship's chambers. The Northwest Judicial District submitted a report recommending Minot, and Wade G. Enget filed a petition supporting Stanley. After reviewing written comments and the criteria in North Dakota Supreme Court Administrative Rule 7.1, the Supreme Court ordered that the new judgeship be chambered in Minot.

DISPOSITION

other

CASES CITED

- Petition to Change Resident Chambers from Stanley to Minot, 2005 ND 221, 707 N.W.2d 251

OPINION

PER CURIAM.

PER CURIAM. [¶ 1] The 61st Legislative Assembly passed Senate Bill 2121 (2009 N.D. Sess. Laws ch. 261), which was signed by the Governor, and became effective July 1, 2009. This legislation provides for an additional district court judge in the Northwest Judicial District.

The legislation also provides for the chambers to be assigned by the Supreme Court. [¶ 2] N.D. Sup.Ct. Admin. R. 7.1 provides the procedure for establishing judgeship chambers within the judicial districts of North Dakota. Notice of an opportunity to provide written comment on the chambering of the new judgeship was posted May 28, 2009, on the website of the Supreme Court.

Notice was also given to the boards of county commissioners for Burke, Divide, McKenzie, Mountrail, Ward and Williams counties through their respective county auditors, and Notice was also published once in the official newspaper for each of the affected counties. Written comments on chambering were permitted through July 1, 2009. [¶ 3] A Report containing population and caseload trends, and other criteria identified in N.D.

Sup.Ct. Admin. R. 7.1, Section 4, was filed June 26, 2009, by the Honorable William W. McLees, Presiding Judge, and Carolyn Woolf, Trial Court Administrator, for the Northwest Judicial District, recommending that the chambers of the new judgeship be placed in Minot. Wade G. Enget, as Attorney at Law and as the Mountrail County State's Attorney, filed a petition in support of chambering the new judgeship in Stanley. [¶ 4] Section 4 of N.D.

Sup.Ct. Admin. R. 7.1, provides the criteria for consideration in designating resident district court judgeship chambers. Discussion of the factors follows. a. Annual district court combined civil, criminal and formal juvenile caseload for the most recent three-year period and any discernible caseload trends or patterns. [¶ 5] Our weighted caseload study allocates judicial resources (including judges and judicial referees) needed to handle cases after weighting each type of case by the time required to process an average case of that type.

The study also allocates time not available for handling cases but which is required from a judge, such as for travel and for the presiding judge to handle administrative matters. The resulting computation expresses the minimum judicial resources as the judicial Full Time Equivalent ("judicial FTE") required to meet the needs of the district based upon weighted case filings.

When minimum judicial FTE's are compared to available judicial FTE's, the difference is expressed as a positive number, indicating there are more judicial resources available than current weighted case filings require, or a negative number, indicating there are fewer judicial resources than are needed to serve those weighted case filings. Ideally a judicial district as a whole would show a small positive number, indicating judicial resources for that district have a margin for contingencies such as the prolonged illness of a judge and similar circumstances not currently accounted for in the weighted caseload study as well as some margin for error in the structure of the study. [¶ 6] The Northwest Judicial District continues to have a shortage of judicial resources.

Weighted Judicial FTE Year Filings Required Difference 2006 558,323_8A2_- 1,42 2007 601,989_9AL- 2.21 2008 626,427 9.33 - 2.70 [¶ 7] Weighted caseload filings for counties in the

Northwest Judicial District are listed in the chart below. *223Burke Divide McKenzie Mountrail Ward Williams 2006 10,436 9,441 28,714 30,474 335,704 143,554 2007 8,132 9,740 29,722 36,777 348,200 169,418 2008 10,627 10,919 32,633 46,837 355,513 169,898 [¶ 8] According to the Report, over half of the Northwest Judicial District caseload over the last three years has come from Ward County.

The Minot judges presently also handle the Burke County caseload, most of the contested civil cases in Mountrail County, and hear conflict cases throughout the rest of the district. In addition, the presently sitting judges have agreed that if the new judgeship is chambered in Minot, the Minot judges will handle all cases in Mountrail County. This will result in an approximate 12% decrease in caseload for the Williston judges.

According to the weighted caseload statistics, Mountrail County has had a significant increase in case filings in 2008; however, 67% of those cases are administrative traffic, which require a reduced level of judicial involvement.

The present oil boom has affected all of the western half of the state. In addition, population at the Minot Air Force Base is expected to rise once the expanded missions for the base become a reality. b. Number and location of attorneys. [¶ 9] The following distribution of attorneys in the district indicates the continued need for more judges chambered in Minot.

Burke 0 Divide 2 McKenzie 3 Mountrail 7 Ward 94 Williams 42 c. Community facilities (restaurants, motels, etc.), and d. Convenience of travel access from surrounding communities (highway, bus, train, air, and parcel services, etc.). [¶ 10] The Report indicates that Minot has 18 motels, 78 restaurants, 13 shopping areas, Minot State University and a number of other community facilities.

According to the Wade Enget petition, Stanley has a motel, a bed and breakfast and 6 restaurants. Both cities are on U.S. Highway 2, and both are stops on Amtrak's "Empire Builder." While both cities have airports, Minot is served by a major airline earner. e, f and h. Compliance with or commitment to court facility standards, Proximity to Detention Facilities for Adults and Juveniles and Proximity to human service center. [¶ 11] The Report filed by the Northwest Judicial District indicates that Ward County has a plan to convert existing space in the courthouse for the use of the new judgeship, if it is chambered in Minot.

Presently Stanley has existing space for a judge and support staff. Ward County has a Class I jail with one hundred forty-four beds for adults and eight beds for juveniles, while Stanley has a Class II jail with twelve beds. All juvenile services for both counties are coordinated through Minot. Juveniles from counties in the North*224west Judicial District are detained either in Minot or Williston.

The North Central Human Service Center in Minot provides services for Burke, Mountrail and Ward counties. i. and k. Impact of any change of chamber on travel time for judges, court personnel, attorneys, and litigants and Impact on affected judicial system employees (juvenile, transcript preparation, and clerks of district court). [¶ 12] The Northwest Judicial District's two major population centers are Minot and Williston, which are located 125 miles apart.

In 2005, Judgeship No. 7 in the Northwest Judicial District was moved from Stanley to Minot. Petition to Change Resident Chambers from Stanley to Minot, 2005 ND 221, 707 N.W.2d 251. Judge Holte, who had been chambered in Stanley, spent three days out of every work week in Minot, requiring the Judge and his secretary/recorder to travel approximately 15,000 miles per year.

Id. at ¶ 13. At that time, Mountrail County had a need for 1.65 to 1.59 judicial FTEs and Ward County had a need for 3.27 to 3.91 judicial FTEs. Id. at ¶ 10. Those needs have increased in both counties since 2005 but in a much greater amount in Ward County. j. Population distribution in the judicial district or defacto subdistrict. [¶ 13] The State Data Center of North Dakota State University, which prepares population estimates by counties, shows that the current distribution of caseload is unlikely to change through 2015..

The population count for 2000 as well as the population projections for the counties in this judicial district are as follows:

	2000 Count	2005 Proiec	Dn 2010	Projection	2015	Projection
Burke	2242	2024	1908	1780		
Divide	2283	2006	1796	1600		
McKenzie	5737	5391	5197	5033		
Mountrail	6631	6492	6518	6516		
Ward	58795	57427	56728	56349		
Williams	19761	18556	17959	17318		

See North Dakota State Data Center, Population Projections in North Dakota: 2005-2020, available at http://www.ndsu.nodak.edu/sd_c/publications/population/18_9release.pdf (last visited July 13, 2009). [¶ 14] The county with the highest population is Ward, which has 61.5% of the population of the entire district.

Although Mountrail County is projected to have a slight increase from 2005 to 2010 and Ward County a slight decrease for that period, the distribution of population in the district will continue to concentrate in Ward and Williams counties. 1. Recommendation' of the presiding judge of the judicial district, after consultation with the judges of the district court. [¶ 15] The Report filed by the district indicates that the presiding judge recommends Minot be the chambers for the new judgeship position.

Further, the presiding judge reported that all of the judges and the referee of the Northwest Judicial District favor placing the judgeship in Minot. The weighted caseload study supports the Minot location, and there are adequate facilities for the position. *225[¶ 16] Enget's Petition addressed the impact of increased activity in the oil fields of western North Dakota and the importance of relationships among the state courts, the tribal court, and members of the Three Affiliated Tribes at Fort Bert-hold Indian Reservation.

We acknowledge these valid and important concerns. All of the judges in the Northwest Judicial District favor chambering the new judgeship in Minot, and their specific knowledge and experience from working in the Northwest Judicial District give them a special insight to the needs of the Judicial District as a whole.

The rural areas of the Northwest Judicial District will continue to receive judicial services with the chambers of the new judgeship in Minot. We trust that all judges in the district will continue to recognize the importance of the continuing working relationships between state and tribal governments including our respective court systems. Of the criteria identified in N.D.

Sup.Ct. Admin. R. 7.1, § 4, factors a, b, f, h, i, j, k, and 1, indicate the chambers of the new judgeship should be located in Minot. The remaining factors are either neutral or do not apply. [¶ 17] Section 27-05-08, North Dakota Century Code, requires no more than 70% of the chambers of this state's district judges be located in cities with a population of more than 10,000.

Senate Bill 2121 increased the number of district judges statewide to 44. Chambering this new judgeship in Minot complies with this statutory constraint. [¶ 18] We are confident that the Honorable William L. McLees, Presiding Judge of the Northwest Judicial District, together with the other judges of the district and their successors, will continue to provide, through assignment, routine and effective judicial services to all counties in the judicial district. [¶ 19] IT IS HEREBY ORDERED, the new judgeship in the Northwest Judicial District is designated Judgeship No. 9, with chambers in Minot, North Dakota, to be filled in the manner provided by N.D.C.C.

Chapter 27-25. [¶ 20] GERALD W. VANDE WALLE, C.J., and MARY MUEHLEN MARING, DALE Y. SANDSTROM, CAROL RONNING KAPSNER, and DANIEL J. CROTHERS, JJ., concur.