

JUL 22 2021

Alaska Judicial Council

Alaska Judicial Council Application for Judicial Appointment

Position(s) for which you wish to be considered:

Anchorage Superior CourtDate: 7-7-21

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* Jack Richard McKenna
 Name as it should appear on bar survey: Jack R. McKenna
* Unless otherwise specified, this is how your name will appear on the bar survey.
- (b) Have you ever used or been known by any other names or pseudonyms? If so, please identify. No
2. How long have you been a resident of the State of Alaska immediately preceding the date of this application?

	<u>12</u> years	<u>2</u> months
Total	<u>12</u> years	<u>2</u> months
3. How long have you been engaged in the active practice of law immediately preceding the date of this application?

	<u>13</u> years	<u>9</u> months
Total	<u>13</u> years	<u>9</u> months

Nonlegal Education

4. State names and dates of attendance of all colleges and professional schools (other than law schools) ever attended and degrees and dates conferred. List any honors.

University of California, Berkeley. Attended August 1997 until December 2001.
 Bachelor of Arts in Integrative Biology received in December 2001.

** See AS 22.10.090; see also 1984 Inf. Op. Atty. Gen. (July 19; 366- 624-84).

Legal Education

5. List all law schools, dates attended and degrees conferred. If you did not receive a degree from any law school, please indicate.

University of California, Davis. Attended August 2004 until May 2007. J.D. received in May 2007.

6. (a) Did you receive any honors in law school or belong to any honorary societies or groups?
☒ Yes ☐ No If yes, please give details.

Moot Court Board
National Moot Court Team
Order of the Barristers
Public Interest Law Certificate

- (b) Have you taken any CLE (continuing legal education) courses during the past five years?
☒ Yes ☐ No

Please describe or list. Please do not attach individual certificates of attendance.

District Attorney's Conference, 3 days in 2019 and 2020.
Construction Law Seminar, 2 days in 2016
3-hour ethics CLEs in 2016, 2017, and 2018

Military

7. Have you served in the armed forces (reserves or otherwise)? ☐ Yes ☒ No

If so, please provide the following information:

- (a) Dates of service: _____
(b) Branch of service: _____
(c) Rank at time of discharge: _____
(d) Type of military discharge: _____
(e) Awards or citations:

- (f) Have you ever been refused admission to or released from any of the armed services for reasons other than honorable discharge? ☐ Yes ☒ No If so, state the details.

Nonlegal Employment

8. Describe major nonlegal working experience. If you had a business or association that has been discontinued, please note whether there are unpaid debts or claims pending litigation.

All of my non-legal work experience was prior to law school.

From 1998 until 2001 I worked for Mains Associates in Berkeley, California as a science writing intern summarizing NASA bioscience experiment results for online publication and performing website design.

From 1999 until 2001 I worked as a laboratory research assistant at the University of California Museum of Paleontology and in Dr. Kevin Padian's laboratory creating resin-embedded sections of various fossils.

From 2002 until 2004 I worked for REI in Berkeley, California in a retail sales position.

Legal Experience

9. Describe chronologically your legal employment since admission to law school. **Please provide dates and location of employment, name of employer, name AND CURRENT ADDRESS OF supervisor or person who can verify AND COMMENT ON YOUR employment, the reason you left the position, and a brief description of type of practice (i.e., insurance defense, criminal, appellate, general, litigation, etc.) for each position listed below.** IF YOU ARE CURRENTLY A TRIAL COURT JUDGE, PLEASE LIST YOUR PRESIDING JUDGE. FOR PAST JUDGESHIPS, PLEASE LIST THE JUDGE WHO LAST PRESIDED DURING YOUR TIME ON THE BENCH.

The Council will ask for comments from your current and former employers about your employment and your judicial qualifications. You may choose to list other persons as character and professional references in response to Question 20 of this application.

If the supervisor or contact person asks (in writing) that the letter be shared with the governor, the Council will send designated letters for each nominee. The applicant should not request a copy of the letter from the reference. References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

Current Employer: State of Alaska, Department of Law

Supervisor or name of contact person who can verify employment: John Skidmore

Current address of this person: 1031 W. 4th Ave., Suite 200

City Anchorage State AK Zip 99501

Dates and location of Employment: From June 2019 To Present City Anchorage State AK

Job title and description:

1/21 until present: Division Director supervising the criminal division office chiefs. 6/19 until 1/21: Chief Assistant Attorney General supervising the Office of Special Prosecutions.

Previous Employers: *(In chronological order, most recent first)*

Employer: Birch Horton Bittner & Cherot

Supervisor or name of contact person who can verify employment: David Gross

Current address of this person: 510 L Street, Suite 700

City Anchorage State AK Zip 99501

Dates and Location of Employment: From 6/2016 To 5/2019 City Anchorage State AK

Job title and description: Associate attorney handling general litigation matters, municipal law issues, construction law, administrative law, and advising clients on Alaska Public Offices Commission issues.

Reason for Leaving: Accepted position as OSP supervising attorney.

Employer: State of Alaska, Department of Law

Supervisor or name of contact person who can verify employment: John Skidmore

Current address of this person: 1031 W. 4th Ave., Suite 200

City Anchorage State AK Zip 99501

Dates and Location of Employment: From 9/2009 To 5/2016 City Anchorage State AK

Job title and description: Assistant District Attorney. Trial team supervisor in 2015-2016. Primarily handled sexual assault and crimes against children cases from 2012 to 2016.

Reason for Leaving: Accepted position at BHBC.

Previous Employers (continued)

Employer: Superior Court Judge Pro Tem Peter Ashman, Alaska Court System

Supervisor or name of contact person who can verify employment: Deceased

Current address of this person: 825 W. 4th Ave.

City Anchorage State AK Zip 99501

Dates and Location of Employment: From 6/09 To 9/09 City Anchorage State AK

Job title and description: Law clerk. Researched and wrote bench memoranda for cases involving a variety of civil and criminal law issues.

Reason for Leaving: Clerkship ended and accepted job at Anchorage DAO

Employer: Remy, Moose & Manley, LLP

Supervisor or name of contact person who can verify employment: Whit Manley

Current address of this person: _____

City _____ State _____ Zip _____

Dates and Location of Employment: From 11/08 To 4/09 City Sacramento State CA

Job title and description: Associate attorney handling environmental litigation and land used matters in state and federal court.

Reason for Leaving: _____ Decided to return to Alaska

Employer: Superior Court Judge Michael R. Spaan, Alaska Court System

Supervisor or name of contact person who can verify employment: Michael R. Spaan

Current address of this person: 825 W. 4th Ave.

City Anchorage State AK Zip 99501

Dates and Location of Employment: From 09/07 To 09/08 City Anchorage State AK

Job title and description: Law clerk. Researched and wrote bench memoranda for cases involving a variety of civil and criminal law issues.

Reason for Leaving: Judicial clerkship term ended

Employer: Professor Carlton Larson

Supervisor or name of contact person who can verify employment: Carlton Larson

Current address of this person: 400 Mrak Hall Dr.

City Davis State CA Zip 95616

Dates and Location of Employment: From 1/07 To 5/07 City Davis State 95616

Job title and description: Teaching Assistant for Constitutional Law 1 class.

Reason for Leaving: Term ended

Employer: Professor Albert Lin

Supervisor or name of contact person who can verify employment: Albert Lin

Current address of this person: 400 Mrak Hall Dr.

City Davis State CA Zip 95616

Dates and Location of Employment: From 6/06 To 8/06 City Davis State CA

Job title and description: Research assistant conducting legal research and writing memoranda.

Reason for Leaving: Term ended

10. During your legal career, please indicate (approximately) the following:

- | | | | |
|-----|------------------------------------|----------|-----------|
| (a) | Percent of your practice that was: | Civil | <u>20</u> |
| | | Criminal | <u>75</u> |
| | | Other | <u>05</u> |
| | | | = 100% |

Comment: "Other" refers to administrative hearings.

- | | | | |
|-----|----------|---------|-------------------|
| (b) | Percent: | State | 97 |
| | | Federal | 3 |
| | | Other | |
| | | | <u> </u> |
| | | | = 100% |

Comment:

- | | | | |
|-----|---------------------------------------|------------------|--------|
| (c) | Of practice in state courts, percent: | Supreme Court | 1 |
| | | Court of Appeals | 2 |
| | | Superior Court | 82 |
| | | District Court | 15 |
| | | | = 100% |

Comment:

- (d) Frequency of appearance in court (select one):
☒ Regularly ☐ Occasionally ☐ Infrequently ☐ Not at All

Comment:

- (e) Number of trials (by court or jury) you conducted (select one):
☐ None ☐ 1-5 ☐ 6-15 ☒ 16-30 ☐ 31 or more

Comment:

- (f) Percent of these trials which were: Jury 100 Non-Jury _____

Comment:

- (g) Approximate number of appellate matters handled: 10

Comment:

- (h) Approximate number of arbitrations or administrative hearings (select one):
☐ None ☐ 1-5 ☒ 6-15 ☐ 16-30 ☐ 31 or more

Briefly describe type of matters heard:

APOC (violations and complaints) and OAH (Contested OSHA violation and APSC Matters)

- (i) Please briefly summarize any *pro bono* work that you have done and indicate whether the work was done through a *pro bono* legal service provider (e.g. Alaska Legal Services, Alaska Network on Domestic Violence and Sexual Assault, etc.).

Pro bono representation of client in long-term domestic violence protective order hearing.

11. List all the courts and administrative tribunals in the United States or elsewhere to which you are or have been admitted to practice, and the dates of admission.

State of California - 2009 (inactive since 2010); State of Alaska - 2010; United States District Court, Eastern District of California - 2009; United States District Court, Alaska - 2016.

Public Service

12. List bar associations, and sections and committees of which you are or have been a member or officer.

Alaska Bar Association
Alaska Bar Association, Law Examiners Committee Member since 2014
State Bar of California (inactive)

13. List publications, if any (give title, subject and date of publications). Please include online publications such as blogs or websites, and any publications you have co-authored and the name(s) of the co-author(s).

14. Have you ever applied for a judgeship? ☒ Yes ☐ No

Please list dates and judgeships applied for, as well as whether you were nominated by the Judicial Council and appointed.

Judgeship	Date	Nominated By Council (Y/N)	Appointed By Governor (Y/N)
Anchorage District Court	10/18	Y	N
Anchorage Superior Court	11/19	Y	N

15. Have you ever held public or political office, elective or appointive? ☐ Yes ☒ No
If so, state office, manner selected, and when and where held.

16. Please provide the Council with information that you would like the Council to consider about other legal and nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal organizations. Please indicate whether you participate in the organization's activities, or simply hold a membership. Your involvement in the community is one of the criteria the Council uses in its evaluations. The Council does not use affiliation with a particular group as a criterion except to the extent that it might raise questions of conflict of interest or would affect an applicant's ability to impartially apply the law.

I am a member of the Municipality of Anchorage's Board of Ethics and currently serve as vice chair. The Board is tasked with implementing and interpreting the Municipality's Ethics Code. It provides advisory opinions, investigates notifications of potential violations, resolves potential conflicts, reviews disclosure forms, and develops ethics training programs.

I was an adjunct professor in the Seattle University School of Law's Alaska Program co-teaching the trial advocacy class during the spring semester of 2020. Classes were held at APU. The class transitioned to being taught by zoom once the pandemic began. The program was not continued in 2021.

I am currently a coach in the Mighty Bikes program teaching mountain biking skills to children. I have served as a backup coach in Boys & Girls Club soccer. I have also assisted with activities in my daughter's girl scout troop and my son's cub scout pack.

17. Indicate (Yes or No) whether you have ever:
- (a) been arrested, charged with, pled guilty or *nolo contendere* to, or been convicted of the violation of any law or ordinance, or been requested to appear before any prosecuting or investigative agency in connection with any matter in any jurisdiction, including all traffic offenses, unless the fine was less than \$50 and there were no other sanctions?
☒ Yes ☐ No
 - (b) failed to answer any summons or other legal process served upon you personally at any time? ☐ Yes ☒ No
 - (c) as a member of any armed forces, been the subject of any charges which may have resulted in disciplinary action or court martial? ☐ Yes ☒ No

- (d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? ☐ Yes ☒ No

If your answer is "yes" to any part of this question, state the facts in detail. Give the name and place of the court or agency, dates of the beginning and end of any action or proceeding, case numbers, and the judgment or other disposition.

In 1997 I pled no contest to an infraction-level petty theft charge in Berkeley Municipal Court (arrest number AYY696). I had tried to take a magazine out of a record store without paying. I paid a fine of \$100.

I received speeding tickets in California in 1996, 1999, and 2002. I did not have to attend court and resolved all three by paying a fine and taking driver education classes.

18. (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? ☐ Yes ☒ No

In particular, have you been the subject of any proceeding, criminal or civil, initiated against you by the Internal Revenue Service or a State Tax Office? ☐ Yes ☒ No

If so, give particulars, including case numbers.

- (b) Have you ever been sued by a client? ☐ Yes ☒ No

If so, give particulars, including case numbers.

- (c) Have you ever been a party in any other legal proceeding? ☐ Yes ☒ No

If so, give the particulars. Include all legal proceedings in which you were a party in interest, including petitioner or respondent in dissolution or divorce proceedings; a material witness; a named co-conspirator or correspondent; and subject or witness in any grand jury proceedings. Do not list proceedings in which you were sued only in a representative capacity (e.g. guardian ad litem, or as Commissioner of Natural Resources).

(d) Has a court ever found you to have provided ineffective assistance of counsel?

☐ Yes ☒ No

If so, provide the particulars including petitioner and case number.

19. State the nature and disposition of any of the following actions which apply to you:

(a) Are there any unsatisfied judgments against you? ☐ Yes ☒ No

Have you ever defaulted in the performance of any court-imposed obligation, including payment of alimony or child support or compliance with another court order or decree?

☐ Yes ☒ No

In each case, list the name and address of the creditor, the court which rendered the judgment, the case number, the date, the amount of the judgment, and the circumstances on which such claim was based.

Has property owned by you been either judicially or non-judicially foreclosed?

☐ Yes ☒ No

Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure.

(b) Have you ever made an assignment for the benefit of creditors?

☐ Yes ☒ No

Have you ever filed any petition in bankruptcy?

☐ Yes ☒ No

If so, state the circumstances, case number, and the outcome.

References and Counsel Questionnaires*

- * **Please Note:** Letters of reference from these persons are confidential and will not be given to the applicant. If the reference asks (in writing) that the letter be shared with the governor, the Council will send designated letters and counsel questionnaires for each nominee. The applicant should not request a copy of the letter from the reference. (You **should not** list the Chief Justice of the Alaska Supreme Court.)

References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

20. (a) List the names, addresses, **including zip codes**, and **phone numbers** of two persons whom the Judicial Council may contact who can discuss your general character and background.

Name: Terry Kelly

Address: _____

City/State/Zip: _____ Phone: _____

Name: Dr. David Paape

Address: _____

City/State/Zip: _____ Phone: _____

- (b) List the names, addresses, **including zip codes**, and **phone numbers** of three other persons whom the Judicial Council may contact who can discuss your professional competence and qualifications for a judicial position.

Name: Holly C. Wells

Address: 510 L Street, Suite 700

City/State/Zip: Anchorage, AK 99501 Phone: _____

Name: Robert Henderson

Address: _____

City/State/Zip: _____ Phone: _____

Name: Jenna Gruenstein

Address: 310 K St. Suite 601

City/State/Zip: Anchorage, AK 99501 Phone: _____

References and Counsel Questionnaires (continued)

(c) List the names, addresses, **including zip codes, and suite numbers where applicable**, of each attorney involved in your three most recent cases that have gone to trial. Please do not list cases with any pending issues in the trial or appellate courts. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases that have gone to trial within the past three years. If you have no cases that have gone to trial within the past three years, you may include cases that went to trial before that date, or may provide up to six cases in response to the next subsection, 20(d). Please include the judge's name and case names and numbers. (*Attach additional pages if necessary.*)

Case Number 1

Case Name: State of Alaska

Case Number: 3AN-14-02529CR

v. Wilmer Flores

Judge Name: Kevin Saxby

Attorneys Involved:

Name: Gary Soberay

Name: _____

Address: 900 West 5th Ave, Suite 200

Address: _____

City, State, Zip: Anchorage, AK 99501

City, State, Zip: _____

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Case Number 2

Case Name: State of Alaska

Case Number: 3AN-13-6946CR

v. Alvaro Tobar

Judge Name: Michael Spaan

Attorneys Involved:

Name: Chong Yim

Name: _____

Address: 900 West 5th Ave, Suite 200

Address: _____

City, State, Zip: Anchorage AK, 99501

City, State, Zip: _____

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Case Number 3

Case Name: State of Alaska

Case Number: 3AN-13-7793CR

v. Iaone Semeatu

Judge Name: Larry Card

Attorneys Involved:

Name: Jeff Robinson

Name: _____

Address: 1227 West 9th Avenue, Suite 200

Address: _____

City, State, Zip: Anchorage, AK 99501

City, State, Zip: _____

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

References and Counsel Questionnaires (continued)

(d) List the names, addresses, **including zip codes, and suite numbers where applicable**, of each attorney involved in your three most recent cases that did not go to trial but in which you did significant work. Please do not list cases with any pending issues in the trial or appellate courts. (Applicants who are currently judges should list the three most recent cases they presided over that did not go to trial but in which they did significant work.) Please include the judge's name and case names and numbers. (*Attach additional pages if necessary.*)

Case Number 1

Case Name: State of Alaska **Case Number:** 3KN-19-895CR
v. Baker Hughes **Judge Name:** Lance Joanis

Attorneys Involved:

Name: <u>Kevin Feldis</u>	Name: <u>Sarah Schirack</u>
Address: <u>1029 W. 3rd Ave, Suite 300</u>	Address: <u>1029 W. 3rd Ave, Suite 300</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: <u>Anchorage, AK 99501</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: State of Alaska **Case Number:** 3AN-19-7695CR
v. Andres Ornelas **Judge Name:** Eric Aarseth

Attorneys Involved:

Name: <u>Ariel Toft</u>	Name: _____
Address: <u>1016 W. 6th Ave., Suite 100</u>	Address: _____
City, State, Zip: <u>Anchorage, AK 99507</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: State of Alaska **Case Number:** 3KN-19-1566CR
v. Matthew Sweet **Judge Name:** Ben Seekins

Attorneys Involved:

Name: <u>Dunnington Babb</u>	Name: <u>(Case transferred to Fairbanks judge</u>
Address: <u>510 L Street, Suite 601</u>	Address: <u>due to conflict within Kenai court system.)</u>
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Writing Sample

21. Attach one example of a brief, memorandum of law, or legal opinion or similar example of legal writing (10-20 pages in length; 15-25 pages for appellate positions) prepared solely by you within the last five years. Please choose a sample that reflects your ability to do legal research and analysis. If you do not have a good sample of this length, include an excerpt from a longer writing. Make sure the sample contains sufficient facts to make it understandable. (Some reply briefs may not meet these requirements.)

Please do not submit: (a) coauthored writing samples, (b) samples with confidential information unless redacted to remove such information, (c) longer writing samples, (d) samples from open cases including cases on appeal.

22. Has any **public** sanction been imposed against you in response to a complaint, charge or grievance brought against you as an attorney or a judge? ☐ Yes ☒ No

Have formal grievance procedures been brought against you? ☐ Yes ☒ No

See Bar Rule 22(b) & (e) concerning public bar grievance procedures against attorneys, and AS 22.30.011(b) and .060(b)(3) concerning public disciplinary grievance procedures against judges.

Have you ever been held in contempt of court? ☐ Yes ☒ No

Have you ever been fined or otherwise sanctioned by a judge? ☐ Yes ☒ No

In each case, state in detail the circumstances and the outcome.

Additional Comments (Non-Confidential)

23. Please make any additional comments that you wish to bring to the Council's attention about your experience and suitability for this judgeship.

I am a good candidate for this position because of my broad experience in the types of cases handled by the Anchorage Superior Court, my understanding of both civil and criminal matters as they are handled around the state, my temperament, as well as my deep commitment to the fair administration of justice.

My work experience includes the bulk of the types of cases handled in Superior Court. My criminal practice has encompassed work as both a prosecutor and defense attorney. I have handled all stages of litigation in the most complex cases, such as homicides, sexual felonies, and complex post-conviction matters. In addition to criminal practice, I have represented multiple clients in general civil litigation matters. I also have experience with writing legal decisions from my time as a law clerk, as a member of the Municipal Board of Ethics, and in private practice where I authored hearing officer decisions. I have practiced in numerous courts around the state, handling civil and criminal cases in Palmer, Kenai, Nome, Kotzebue, Bethel, and Dillingham. I have enjoyed this broad and varied experience and if appointed I would bring my love of learning new areas of the law to the bench.

Additional Comments (Continued)

In addition to my practical experience, I believe that I would make a strong candidate because of my temperament and how I interact with others. I have always believed in treating everyone with respect. I have had criminal defendants whom I was prosecuting thank me after a case was concluded for treating them fairly and as individual human beings. I have always striven to interact with opposing counsel and the Court, even during the most contentious hearings, with professionalism. I would commit myself to maintaining that same respectful demeanor if selected for this position.

Finally, and most importantly, I firmly believe that the legal system plays a crucial role in our society and that the fair administration of that system is necessary to maintain the public's faith in the rule of law. If appointed to serve, I would bring a daily commitment to treat everyone who appears in the courtroom with respect and to ensure that the law is fairly applied. I would be truly honored to serve as a Superior Court judge.

24. Please indicate whether you prefer to be interviewed in public session or in private session. Your choice of a public or private interview has no bearing on the Council's determination of your qualifications or on the questions the Council may ask. You may change your request in writing at any time before the interview starts (select one).

☐ Public Interview

☒ Private Interview

25. Please prepare a brief biographical statement (*limited to 150 words*) about your background, legal education, and legal experience. Please do not list personal information about minor children. Your picture and a copy of this statement will be scanned and posted on the Council's website after the application deadline. In its bar survey, the Council will invite attorneys to review the information if they wish to become more familiar with your background and experience. Use the form on the following page for your biographical statement. Please leave the box at the top empty. The Council will use this space for your scanned picture. ***To be fair to all applicants, the Council will strictly enforce the 150 word limit.***

If you object to the posting of your picture on the Council's website, please indicate your objection below. If you object, we will not post your picture, although you still must submit two photographs of yourself with your application.

☐ If you check this box **we will not** post your picture on the website.

Biographical Statement

Name Jack R. McKenna

Position(s) for which you wish to be considered:

Anchorage Superior Court

Please leave this area blank

Date: 7/22/21

I was raised in Northern California and attended law school at UC Davis. I moved to Alaska in 2007 to clerk for Judge Michael Spaan. Following my clerkship I returned to California to work for an environmental litigation firm, but I quickly decided to return to Alaska to pursue my career. I am currently the Criminal Division Director at the Department of Law, supervising the state's district attorneys' offices. Previously, I was the Chief Assistant Attorney General supervising the Office of Special Prosecutions and an Assistant DA in the Anchorage DA's Office. I also have experience with civil practice, having worked for three years at Birch Horton Bittner & Cherot handling a wide variety of civil and administrative matters and also doing some criminal defense work. I am married and have two children. I spend my time outside of work with family and friends biking, hiking, fishing, hunting, rafting, and skiing.