

# Alaska Judicial Council Recommendation

## Judge David Stewart, Court of Appeals

**I. Judicial Council Evaluation.** The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Stewart to be **Qualified** and recommends unanimously (6-0) that the public vote "YES" to retain him as a court of appeals judge.

**II. Summary of Evaluation Information.** In a survey sent to all 2,644 attorneys in Alaska, Judge Stewart was rated in the excellent range on overall judicial performance (4.0, see graph). He scored highest (4.2) in the categories of "conduct free from impropriety," and "courtesy." He scored 3.9 or better in all ten categories.

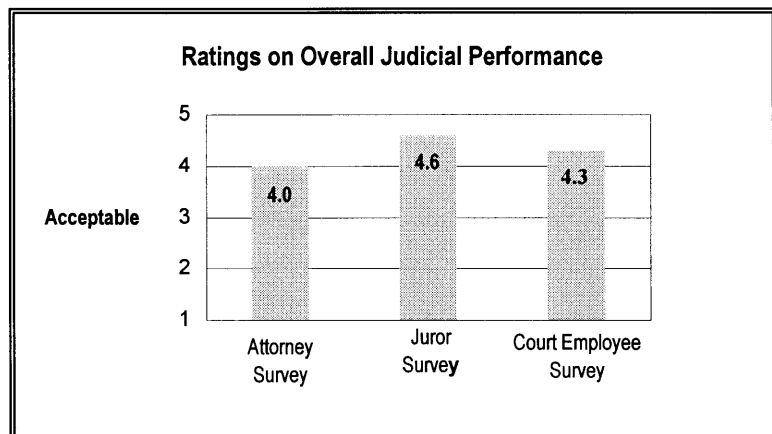
Summary Categories	Attorney Survey	Juror Survey	Court Employee Survey
Legal Ability	3.9	---	---
Impartiality	4.1	4.4	---
Integrity	4.1	---	4.3
Temperament	4.1	4.6	4.3
Diligence	4.0	---	4.2
Overall	4.0	4.6	4.3

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

**Range Description**  
 4.0 - 5.0 = Excellent  
 3.5 - 3.9 = Good  
 3.0 - 3.4 = Acceptable  
 2.5 - 2.9 = Below Acceptable  
 1.0 - 2.4 = Poor

A survey of all jurors appearing before Judge Stewart in 1998 and 1999 rated him in the excellent range (4.6) on overall performance. A survey of all court employees rated him in the excellent range (4.3) on overall performance.

The Council also completed a background investigation including a court records check, a disciplinary records check, a review of conflict of interest statements submitted to the court system, a review of any withheld salary warrants and a review of financial disclosure statements submitted to the Alaska Public Offices Commission. Attorneys, court employees and jurors were asked to submit written comments about the judge. The Council actively encouraged the public to comment, both in writing and in a statewide public hearing teleconference.



**Recommendation: Vote "YES" to retain Judge Stewart**

Contact the Judicial Council at 1029 W. 3rd, Suite 201, Anchorage, AK 99501 (telephone: (907) 279-2526) for more detailed information, or review the information on our Internet site at:

[www.ajc.state.ak.us](http://www.ajc.state.ak.us)



# alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1969 (907) 279-2526 FAX (907) 276-5046  
http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

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## Alaska Judicial Council Questionnaire

### Appellate Judge 2000 Candidates for Judicial Retention

November 19, 1999

David Stewart

Court of Appeals

Name

Court

1. Describe your workload during your present term.

- a) \_\_\_\_\_ % Civil Cases                      b) 1 # of trials/year (as trial court judge)
- 100 % Criminal Cases
- \_\_\_\_\_ % Court Administrative
- 100 % Total

2. Please describe your participation on court/Bar committees or other administrative activities during your current term of office.

I am a member of the Appellate Rules Committee. I served on the  
~~Criminal Justice Assessment Commission. I am presently chair of the~~  
Law Examiners Committee of the Alaska Bar Association

3. On a separate sheet of paper please assess, in one or two paragraphs, your judicial performance during your present term. Appropriate areas of comment could include: satisfaction with your judicial role, specific contributions to the

judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities that you believe to be important.

4. During your most recent term as a judge, have you:

- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities? Yes \_\_\_\_\_ No X.
  
- b) been involved in a nonjudicial capacity in any legal proceeding whether as a party or otherwise? Yes X No \_\_\_\_\_.
  
- c) engaged in the practice of law (other than as a judge)? Yes \_\_\_\_\_ No X.
  
- d) held office in any political party? Yes \_\_\_\_\_ No X.
  
- e) held any other local state or federal office? Yes \_\_\_\_\_ No X.

If your answer to any of the questions above is "yes," please give full details, including dates, facts, case numbers and outcomes.

See attached.

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Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2000 retention elections.

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5. Please list the names and case numbers of the six most recent opinions issued by you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

<b><i>Name of Case</i></b>	<b><i>Case Number</i></b>
<b>1</b> Walker v. State	A-6994

***Attorneys Involved***

Name: William R. Satterberg and  
James McLain  
Address: 709 4th Ave  
Fairbanks, AK 90701

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: Douglas Kossler  
Address: 310 K St., Ste. 308  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

<b><i>Name of Case</i></b>	<b><i>Case Number</i></b>
<b>2</b> Brant v. State	A-6879 and A-6978

***Attorneys Involved***

Name: Nelson Traverso  
Address: 100 Cushman St., Ste. 502  
Fairbanks, AK 90701

Name: Susan Downie  
Address: 529 5th Ave., Ste. 100  
Fairbanks, AK 90701

Name: Eric Johnson  
Address: 310 K St., Ste. 308  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

<b><i>Name of Case</i></b>	<b><i>Case Number</i></b>
<b>3</b> Hanson v. State	A-6824

***Attorneys Involved***

Name: Maria Bahr  
Address: 900 W. 5th Ave., Ste. 200  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: Douglas Kossler  
Address: 310 K St., Ste. 308  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

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**Name of Case**

Hiller v. State

**Case Number**

A-6877

**Attorneys Involved**

Name: Ronald Hemby  
Address: 111 Stedman St., Ste 100  
Ketchikan, AK 99901

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: Kenneth Rosenstein  
Address: 310 K St., Ste. 308  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

5

**Name of Case**

Stream v. Anchorage

**Case Number**

A-7169

**Attorneys Involved**

Name: Leigh Ann Bauer  
Address: 750 W. 2nd Ave., Ste. 210  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: Carmen ClarkWeeks  
Address: 420 L St., Ste. 100  
Anchorage, AK 99501

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

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**Name of Case**

Guevarra v. State

**Case Number**

A-7270

**Attorneys Involved**

Name: David Seid  
Address: 415 Main St., Ste. 206  
Ketchikan, AK 99901

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: Stephen West  
Address: 415 Main St., Ste. 304  
Ketchikan, AK 99901

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

6. If you deem it helpful to the Council, please list the name, case number and attorneys' names and current addresses of any other cases during your judicial career in which you believe your work was particularly noteworthy. (Attach additional pages if necessary.)

**1**

*Name of Case*

*Case Number*

\_\_\_\_\_

*Attorneys Involved*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**2**

*Name of Case*

*Case Number*

\_\_\_\_\_

*Attorneys Involved*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**3**

*Name of Case*

*Case Number*

\_\_\_\_\_

*Attorneys Involved*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

3. I think serving on the Court of Appeals is an honor and a trust. I have found the work to be challenging and rewarding. Serving as an appellate judge is remarkably different than the trial court but I think that my prior service on district court has given me a valuable perspective for my service on this court.

I give each case my best judgment. In the opinions that I author, I write with the goal of providing a lucid and understandable explanation of our reasoning. I hope that I have succeeded; I strive to do better.

4(b). I was deposed in Anchorage on September 1, 1999, as a witness in *Breeze v. Mutual Life Insurance Co of New York*. The case is filed in federal court in the Southern District of California. The case number is 98CV1220 BTM. The deposition concerned my activities as special counsel to the Attorney General for the prosecution and subsequent conviction of Robert Breeze, an attorney. Apparently Breeze is suing Mutual Life over a disability insurance policy that he collected on for a number of years on the basis that he was too depressed to work as a lawyer because I was prosecuting him.

I remain as a listed party in the divorce case filed by my ex-wife in 1983 in Middlesex County in Massachusetts in case no. 154199. A divorce was entered in that case in 1985. I am also a party in an adjunct to that original action under file no. 96 E 0155 GC.

## **MEMORANDUM**

**TO:** Judicial Council Members  
**FROM:** Staff  
**DATE:** May 16, 2000  
**RE:** Comparison of Previous Survey Results - David Stewart

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David Stewart is standing for retention in 2000. The tables on the following page compare retention and selection survey scores for Judge Stewart. Changes in the form and content of the various surveys should be noted carefully in making any comparisons.

Judge Stewart previously stood for retention as a district court judge in 1986. He was evaluated with the other non-retention judges in 1990 and 1998.

Judge Stewart applied for and was appointed to the Court of Appeals in 1997. He previously applied for the Palmer Superior Court (1996), the Anchorage Superior Court (1989) and the Anchorage District Court (1984). He was nominated each time and appointed to the Anchorage District Court in 1984.



<b>Judge David Stewart</b> Retention surveys						
	2000 Retention	1998 Retention Preview	1986 Retention		1990 Retention Preview	
			Bar	PPO	Bar	PPO
Legal Ability	3.9	4.1	4.0	---	4.0	---
Fairness	4.1	4.2	4.1	3.7	4.1	4.1
Integrity	4.1	4.3	4.3	3.9	4.2	4.2
Judicial Temperament	4.1	4.2	4.0	3.6	4.0	4.1
Diligence	4.0	—	—	---	—	---
Overall Performance	4.0	4.2	4.0	3.6	4.0	4.1

<b>Judge David Stewart</b> appointed to Court of Appeals 6/25/97						
	1997 Court of Appeals		1996 Palmer Superior		1989 Anchorage Superior	1984 Anchorage District
	Score	Range	Score	Range		
Professional Competence	4.1	Excellent	4.1	Excellent	3.81	4.0
Integrity	4.2	Excellent	4.2	Excellent	4.04	4.24
Fairness	4.1	Excellent	4.1	Excellent	3.90	4.19
Judicial Temperament	4.1	Excellent	4.0	Excellent	3.81	---
Suitability of Experience	4.0	Excellent	4.1	Excellent	3.77	---
Overall Performance	4.0	Excellent	4.1	Excellent	3.81	4.0