

Alaska Judicial Council Recommendation

Judge Charles Pengilly, Superior Court, Fairbanks

I. Judicial Council Evaluation. The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Pengilly to be *Qualified* and recommends unanimously (5-0) that the public vote "YES" to retain him as a superior court judge.

II. Summary of Evaluation Information. A survey of 2,860 attorneys in Alaska rated Judge Pengilly on sixteen categories that are summarized in the adjacent graph. Attorneys rated Judge Pengilly 3.9 on a scale of 5 on overall judicial performance. He scored highest (4.2) in the categories of "legal ability," "conduct free from impropriety," and "willingness to work diligently." He scored 3.5 or better in all sixteen categories.

	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey
Legal Ability	4.2	---	---	---
Impartiality	3.9	4.1	4.7	4.3
Integrity	4.1	4.2	---	4.3
Temperament	3.8	4.2	4.8	4.2
Diligence	4.1	4.2	---	4.4
Special Skills	3.8	4.0	---	---
Overall	3.9	4.2	4.7	4.2

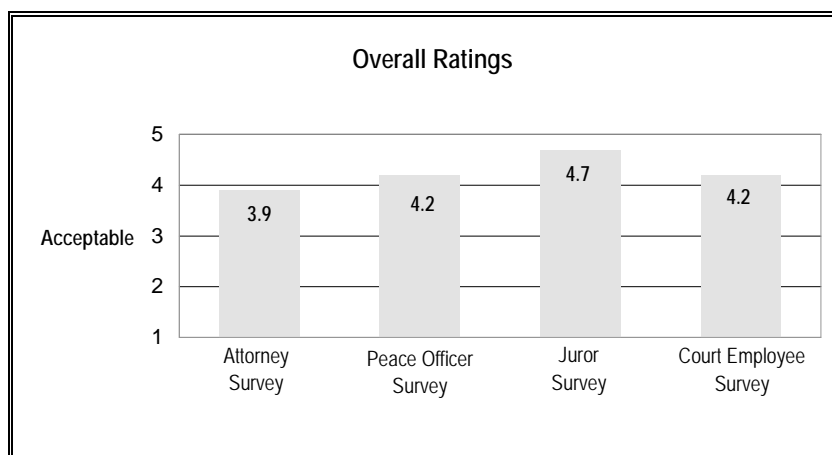
Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Rating Scale
 5.0 = Excellent
 4.0 = Good
 3.0 = Acceptable
 2.0 = Deficient
 1.0 = Unacceptable

A survey of 1,704 peace and probation officers in Alaska rated Judge Pengilly on twelve categories that are summarized in the adjacent graph. Peace and probation officers rated Judge Pengilly 4.2 on a scale of 5 on overall judicial performance. He scored highest (4.3) in the categories of "controls courtroom" and "promptness in making decisions." He scored 4.0 or better in all categories.

A survey of all jurors appearing before Judge Pengilly in 2000 and 2001 rated him 4.7 on a scale of 5 on overall performance. A survey of all court employees rated him 4.2 on a scale of 5 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 and a review of financial disclosure statements submitted to the Alaska Public Offices Commission. Attorneys, peace officers, 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 Pengilly

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

November 2002



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ALASKA JUDICIAL COUNCIL

alaska judicial council

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Alaska Judicial Council Questionnaire

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Trial Judge 2002 Candidates for Judicial Retention

CHAIR, EX OFFICIO
Dana Fabe
Chief Justice
Supreme Court

November 16, 2001

Charles Pengilly
Name

Superior Court
Court

1. Describe your workload during your present term.

a) <u>70</u> % Civil Cases	b) <u>50</u> # of trials/year
<u>25</u> % Criminal Cases	<u>5</u> # Administrative Appeals
<u>5</u> % Court Administrative	
100 % Total	

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

Criminal Rules Committee
Judicial Conduct Commission

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.

3. This is my first term as a superior court judge. During the last four years, I have continued to try substantial numbers of civil and criminal cases, and have become comfortable with two previously unfamiliar areas: child in need of aid cases and divorces. Although the work load is larger than I would like, I think I have been generally successful in rendering prompt and just decisions in the cases before me. On the whole, I am doing fine and am looking forward to another term.

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 _____ No X.

- 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.

Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2002 retention elections.

5. Please list the names and case numbers of the three most recent jury cases tried before you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

1

Name of Case

Schoener v. Brown

Case Number

4FA-00-292 Civil

Attorneys Involved

Name: Joseph Paskvan

Address: P.O. Box 73888

Fairbanks, AK 99701

Name: Blake Call

Address: 550 W. 7th Ave. Suite 1100

Anchorage, AK 99501

Name:

Address:

Name:

Address:

2

Name of Case

McLaughlin v. Robson

Case Number

4FA-96-2602 Civil

Attorneys Involved

Name: Michael MacDonald

Address: 1008 16th Ave.

Fairbanks, AK 99701

Name: Arthur Robson

Address: 483 McKinleyview Dr.

Fairbanks, AK 99712

Name:

Address:

Name: Thomas Wickwire

Address: 2775 Hanson Rd., Suite 1

Fairbanks, AK 99709

3

Name of Case

State v. James Oden

Case Number

4FA-S00-2174 Cr

Attorneys Involved

Name: Gene Gustafson

Address: District Attorney's Office

604 Barnette St.

Fairbanks, AK 99701

Name: William Murphree

Address: 250 Cushman, Suite 100

Fairbanks, AK 99701

Name:

Address:

Name:

Address:

6. Please list the names and case numbers of the three most recent non-jury cases tried before you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

Name of Case	Case Number
1 <u>Benowitz v. Evetts</u>	<u>4FA-01-430 Civil</u>

Attorneys Involved

Name: John Connors
Address: P.O. Box 75124
Fairbanks, AK 99707

Name: Paul Ewers
Address: 312 5th Avenue
Fairbanks, AK 99701

Name: _____
Address: _____

Name: _____
Address: _____

Name of Case	Case Number
2 <u>Hutchinson v. Hutchinson</u>	<u>4FA-01-369 Civil</u>

Attorneys Involved

Name: Edward Niewohner
Address: P.O. Box 74490
Fairbanks, AK 99707

Name: Theodore Hoppner
Address: P.O. Box 70767
Fairbanks, AK 99707

Name: _____
Address: _____

Name: _____
Address: _____

Name of Case	Case Number
3 <u>Smith-Justice v. Watson</u>	<u>4FA-01-688 Civil</u>

Attorneys Involved

Name: Terrance Hall
Address: 751 Seventh Ave., Suite 1
Fairbanks, AK 99701

Name: Edward Niewohner
Address: P.O. Box 74490
Fairbanks, AK 99707

Name: _____
Address: _____

Name: _____
Address: _____

7. Please list the names and case numbers of the three most recent cases which did not go to trial, but on which you did significant work (such as settlement conference, hearings, motion work, etc.), identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

<i>Name of Case</i>	<i>Case Number</i>
1 <u>Allvest v. City of Delta Junction</u>	<u>4FA-99-2173 Civil</u>

Attorneys Involved

Name: Donald McClintock
Address: 1130 W. 6th Avenue
Anchorage, AK 99501

Name: George Lyle
Address: 510 L St.
Anchorage, AK 99501

Name: Mark Ashburn
Address: 1130 W. 6th Avenue
Anchorage, AK 99501

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
2 <u>Jackovich v. State of Alaska</u>	<u>4FA-97-2320 Civil</u>

Attorneys Involved

Name: Kenneth Ringstad
Address: 714 4th, Ste 301
Fairbanks, AK 99701

Name: Mason Damrau
Address: Attorney General's Office
100 Cushman St., Ste 400
Fairbanks, AK 99701

Name: _____
Address: _____

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
3 <u>State of Alaska v. Chena Hot Springs Resort</u>	<u>4FA-S00-2171 Cr</u>

Attorneys Involved

Name: Kevin F. Burke
Address: Attorney General's Office
310 K St., Ste 308
Anchorage, AK 99501

Name: William Satterberg
Address: 709 Fourth Ave.
Fairbanks, AK 99701

Name: _____
Address: _____

Name: _____
Address: _____

8. 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: _____

MEMORANDUM

TO: Judicial Council Members
FROM: Staff
DATE: April 24, 2002
RE: Comparison of Previous Survey Results - Charles Pengilly

Charles Pengilly is standing for retention in 2002. The tables on the following pages compare retention and selection survey scores for Judge Pengilly. Changes in the form and content of the various surveys should be noted carefully in making any comparisons.

Judge Pengilly previously stood for retention as a district court judge in 1992 and 1996. He was evaluated with the other non-retention judges in 1994 and 2000.

Judge Pengilly applied for and was appointed to the Fairbanks District Court in 1990. He applied for and was appointed to the Fairbanks Superior Court in 1997. He applied for the Fairbanks District Court in 1988, the Fairbanks Superior Court in 1988 and 1992, and the Court of Appeals in 1997.

Judge Charles Pengilly Appointed to Fairbanks Superior Court 11/07/97 Appointed to Fairbanks District Court 09/27/90										
	<i>2002 Retention</i>		<i>2000 Interim</i>		<i>1996 Retention</i>		<i>1994 Interim</i>		<i>1992 Retention</i>	
	<i>Ba</i>	<i>PPO</i>	<i>Ba</i>	<i>PPO</i>	<i>Ba</i>	<i>PPO</i>	<i>Ba</i>	<i>PPO</i>	<i>Ba</i>	<i>PPO</i>
	<i>r</i>		<i>r</i>		<i>r</i>		<i>r</i>		<i>r</i>	
Legal Ability/Professional Competence	4.2	----	4.1	----	4.4	----	4.2	-----	4.2	----
Impartiality/Fairness	3.9	4.1	4.0	4.2	4.2	4.0	4.0	3.7	4.1	3.8
Integrity/Good Character	4.1	4.2	4.3	4.2	4.3	4.1	4.0	3.8	4.1	3.7
Judicial Temperament	3.8	4.2	4.1	4.2	4.2	4.2	4.0	3.9	4.1	3.8
Diligence	4.1	4.2	4.1	4.2	4.4	4.2	4.2	3.9	----	----
Special Skills	3.8	4.0	----	----	4.4	3.9	4.0	4.1	4.3	3.8
Overall Performance	3.9	4.2	4.1	4.3	4.3	4.1	4.0	3.8	4.1	3.7

Judge Charles Pengilly Appointed to Fairbanks Superior Court 11/07/97 Appointed to Fairbanks District Court 09/27/90						
	<i>1997 Fairbanks Superior</i>	<i>1997 Court of Appeals</i>	<i>1992 Fairbanks Superior</i>	<i>1990 Fairbanks District</i>	<i>1988 Fairbanks Superior</i>	<i>1988 Fairbanks District</i>
Professional Competence	4.3	4.3	4.1	4.2	3.7	3.9
Impartiality/Fairness	4.1	4.1	3.8	4.0	3.6	3.7
Integrity/Good Character	4.3	4.3	4.0	4.2	3.8	3.9
Judicial Temperament	4.1	4.1	3.8	3.8	3.4	3.5
Suitable Experience	4.2	4.1	---	4.0	3.2	3.5
Overall Performance	4.1	4.2	3.9	---	---	---