

JUL 23 2018

ALASKA JUDICIAL COUNCIL

# Alaska Judicial Council Application for Judicial Appointment

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

Court of Appeals

Date: July 18, 2018

## I. Public Information (Questions 1-24)

### Personal

1. (a) State full name\* Bethany Spalding Harbison

Name as it should appear on bar survey: Bethany Harbison

\* 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 name? If so, please identify.

Bethany Prime Spalding

2. How long have you been a resident of the State of Alaska immediately preceding the date of this application? \*\*

25 years 0 months  
Total        years        months

3. How long have you been engaged in the active practice of law immediately preceding the date of this application? \*\*

24 years 7 months  
Total        years        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.

Williams College, 1985-1989, BA 1989 cum laude

\*\* 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.

Harvard Law School, 09/1990-05/1993, JD cum laude

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.

Graduated cum laude

(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.

2013 - spring and fall Judicial Conferences; "Advanced Evidence" (NJC)  
2014 - spring and fall Judicial Conferences; CINA Training  
2015 - Newer Judge Training; spring and fall Judicial Conferences  
2016 - Alaska Bar Convention  
2017 - fall Judicial Conference; "Fourth Amendment: Comprehensive Search and Seizure" (NJC)  
2018 - Child in Need of Aid Laws, Roles & Responsibilities, Practices & Procedures

**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.

I taught English Composition, English Language, Western Culture, and reading to doctors and graduate students at Sun Yat-Sen University of Medical Sciences in Guangzhou, China from August of 1989 to May of 1990.

## 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 Court System

Supervisor or name of contact person who can verify employment: Ron Woods, Area Court Administrator

Current address of this person: 101 Lacey St.

City Fairbanks State AK Zip 99701

Dates and location of Employment: From Oct 2013 To present City Fairbanks State AK

Description:

I am a Superior Court Judge with a mixed civil/criminal docket. I have general jurisdiction over all trial court matters.

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

Employer: State of Alaska Court System

Supervisor or name of contact person who can verify employment: Judge Michael A. MacDonald

Current address of this person: 101 Lacey St.

City Fairbanks State AK Zip 99701

Dates and Location of Employment: From Sept 2005 To Oct 2013 City Fairbanks State AK

Description: I worked as a Magistrate Judge. I conducted various criminal hearings - including arraignments, bail review, preliminary hearings, and changes of

Reason for Leaving: accepted a position as Superior Court Judge

Employer: Alaska Public Defender Agency

Supervisor or name of contact person who can verify employment: Paul Canarsky

Current address of this person: PO Box 82207

City Portland State OR Zip 97282

Dates and Location of Employment: From March 1995 To July 2005 City Fairbanks State AK

Description: I represented indigent clients in all levels of criminal cases (from homicide to disorderly conduct). I also represented clients in juvenile

Reason for Leaving: accepted a position as Magistrate for the Alaska Court System

Question #9 (continued):

(continued job description for Magistrate and Standing Master)

plea. I also conducted emergency hearings in child protection and juvenile delinquency cases, and I did a variety of civil work as a standing master.

(continued job description for Public Defender Agency)

delinquency matters, involuntary commitments, child protection cases, criminal appeals, post-conviction relief matters, and parole board hearings. I conducted over 45 jury trials and numerous court trials while I was a public defender.

**Previous Employers (continued)**

Employer: State of Alaska Court System  
Supervisor or name of contact person who can verify employment: Judge Mary E. Greene  
Current address of this person: P.O Box 74871  
City Fairbanks State AK Zip 99707  
Dates and Location of Employment: From Aug. 1993 To March 1995 City Fairbanks State AK  
Description: I served as a law clerk for Judge Greene. I researched the issues and prepared legal memoranda in cases involving complex civil litigation. And  
Reason for Leaving: accepted a position as Assistant Public Defender

Employer: Pierce Atwood Scribner Allen Smith and Lancaster  
Supervisor or name of contact person who can verify employment: William Kayata  
Current address of this person: One Monument Square  
City Portland State ME Zip 04101  
Dates and Location of Employment: From June 1992 To Aug. 1992 City Portland State ME  
Description: I worked as a summer associate doing research and writing memoranda for the attorneys in the law firm.  
Reason for Leaving: summer employment only - I returned to law school

Employer: University of Alaska Fairbanks - Tanana Valley Campus  
Supervisor or name of contact person who can verify employment: Ed Husted  
Current address of this person: 604 Barnette St.  
City Fairbanks State AK Zip 99701  
Dates and Location of Employment: From Aug 2000 To May 2005 City Fairbanks State AK  
Description: I taught Criminal Law for the paralegal program as an adjunct faculty member for one semester each year.  
Reason for Leaving: term ended, eventually chose not to return

Employer: \_\_\_\_\_  
Supervisor or name of contact person who can verify employment: \_\_\_\_\_  
Current address of this person: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Dates and Location of Employment: From \_\_\_\_\_ To \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
Description: \_\_\_\_\_  
Reason for Leaving: \_\_\_\_\_

Employer: \_\_\_\_\_  
Supervisor or name of contact person who can verify employment: \_\_\_\_\_  
Current address of this person: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Dates and Location of Employment: From \_\_\_\_\_ To \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
Description: \_\_\_\_\_  
Reason for Leaving: \_\_\_\_\_

Question #9 (continued):

(continued job description for Law Clerk)

I occasionally worked on Judge Greene's criminal matters.

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

(a) Percent of your practice that was: 

Civil	30
Criminal	60
Other	10
	= 100%

Comment: \_\_\_\_\_

(b) Percent: 

State	100
Federal	0
Other	0
	= 100%

Comment: \_\_\_\_\_

(c) Of practice in state courts, percent: 

Supreme Court	1
Court of Appeals	1
Superior Court	70
District Court	30
	= 100%

Comment: \_\_\_\_\_

(d) Frequency of appearance in court:  
 Regularly       Occasionally       Infrequently       Not at All

Comment: \_\_\_\_\_

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

Comment: \_\_\_\_\_

(f) Percent of these trials which were: Jury 50      Non-Jury 50

Comment: I conducted over 45 jury trials as an assistant PD.

(g) Approximate number of appellate matters handled: 15

Comment: I handled appeals as a public defender.

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

Briefly describe type of matters heard:

Parole board hearings as a public defender

(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.).

None. This is because the Code of Judicial Conduct, Canon 4G, prohibits judges from practicing law. This provision applies to magistrates. Also, Administrative Rule 2 prohibits employees of the Alaska Court System from practicing law in Alaska courts. I did not do any pro bono work when I was an assistant public defender because Alaska Statute 18.85.070 prohibits assistant public defenders from engaging in the practice of law except in their official capacity in the agency.



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.

Alaska: December 20, 1993

**Public Service**

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

- CINA/Delinquency Rules Committee: Served as member from 2007 to Dec. 2017  
 - Fairness, Diversity, and Equality Committee: Served as member from April 2011 to the present  
 - Alaska Legal Services Corporation: Served as alternate board member from Nov. 26 1996 through April 6, 2001. Served as regular board member from April 6, 2001 through Oct. 29, 2002. Served as alternate from Oct. 29, 2002 through Oct. 2003.

13. List legal publications, if any (give title, subject and date of publications). Please include publications you have co-authored and the name(s) of the co-author(s).

(Empty box for legal publications)

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)
Fairbanks Superior Court	2006	Y	N
Fairbanks Superior Court	2007	Y	N
Fairbanks Superior Court	2009	Y	N
Fairbanks District Court	2011	Y	N

Question #14 (continued):

Fairbanks Superior Court – 2012 – nominated by council – appointed by governor

Fairbanks Superior Court – 2012 – withdrew (appointed by governor to the other open position)

Court of Appeals – 2016 – nominated by council – not appointed by governor

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.

Tanana Valley Bar Association  
National Association of Women Judges  
Training Judge for Magistrate Judges (ended 12/17)  
Presiding Judge of the Fourth Judicial District  
Elder Law Task Force, member and Monitoring Subcommittee chairperson  
Fairbanks Restorative Justice Implementation Group, court liaison  
Magistrate Judge Working Group  
Magistrate Judge Evaluation Panel(ended 12/17)  
4th Judicial District liaison re involuntary commitment transportation  
"We the People" middle school youth competition, volunteer judge  
Rural Court Magistrate Study Group, chairperson  
Anti-Sexual Harassment Working Group  
Security and Emergency Preparedness Committee

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.

I was convicted of speeding in violation of 13 AAC 02.275(b) by a plea of no contest on June 16, 1995 - Case No. 4FA-950T821443 (Fairbanks).

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).

Case No. 4FA-01-1193 CI: Change of Name. I changed my name from Bethany Prime Spalding to Bethany Spalding Harbison.

Case No. 3AN-09-10004 CI: Divorce case.

Case No. S-16019: Appeal of custody order. Dismissed.

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: Elizabeth Sprankle  
Address: 2665 Monteverde Road  
City/State/Zip: Fairbanks, AK 99709 Phone: 907-457-4162

Name: Robin Fowler  
Address: 607 Old Steese Hwy Suite B, Box 341  
City/State/Zip: Fairbanks, AK 99701 Phone: 907-978-0874

- (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: Judge Michael McConahy  
Address: 101 Lacey St.  
City/State/Zip: Fairbanks, AK 99701 Phone: 907-452-9311

Name: Judge Niesje J. Steinkruger  
Address: 1249 Donna Drive  
City/State/Zip: Fairbanks, AK 99712 Phone: 907-347-7760

Name: Marcia Holland  
Address: 2616 Wedgewood Court  
City/State/Zip: Missoula, MT 59808 Phone: 406-543-6598

## References and Counsel Questionnaires (continued)

(c) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that have gone to trial. Please do not list cases pending in the trial 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. Please include the judge's name and case names and numbers. (*Attach additional pages if necessary.*)

### Case Number 1

**Case Name:** White **Case Number:** 4FA-16-1674 CI  
**v.** White **Judge Name:** Bethany Harbison

#### Attorneys Involved:

Name: <u>Susan Mitchell</u>	Name: <u>Margaret Rogers</u>
Address: <u>AGO, 100 Cushman St., Suite 400</u>	Address: <u>100 Cushman St. Suite 513</u>
City, State, Zip: <u>Fairbanks, AK 99701</u>	City, State, Zip: <u>Fairbanks, AK 99701</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

### Case Number 2

**Case Name:** Eric Lanser **Case Number:** 4FA-11-3117 CI  
**v.** Robert Riddle **Judge Name:** Bethany Harbison

#### Attorneys Involved:

Name: <u>William Satterberg</u>	Name: <u>Amie Oravec</u>
Address: <u>709 Fourth Avenue</u>	Address: <u>415 1st Avenue</u>
City, State, Zip: <u>Fairbanks, AK 99701</u>	City, State, Zip: <u>Fairbanks, AK 99701</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

### Case Number 3

**Case Name:** Yordy **Case Number:** 4FA-17-1404 CI  
**v.** Yordy **Judge Name:** Bethany Harbison

#### Attorneys Involved:

Name: <u>Craig Partyka</u>	Name: <u>Teryn Bird</u>
Address: <u>714 4th Avenue, Suite 200</u>	Address: <u>726 26th Avenue, Suite 1</u>
City, State, Zip: <u>Fairbanks, AK 99701</u>	City, State, Zip: <u>Fairbanks, AK 99701</u>
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, and phone numbers 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 pending in the trial 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:** IMO: KJ **Case Number:** 4FA-15-84 CN  
**v.** **Judge Name:** Bethany Harbison

#### Attorneys Involved:

Name: Gerald Kenna	Name: Nikole Schick
Address: AGO, 100 Cushman St. Suite 400	Address: OPA, 100 Cushman St. Ste 502
City, State, Zip: Fairbanks, AK 99701	City, State, Zip: Fairbanks, AK 99701
Name: Amy Bennett	Name: Jason Weiner
Address: PDA, 529 Fifth Avenue, Suite 1	Address: 1008 16th Avenue, Suite 200
City, State, Zip: Fairbanks, AK 99701	City, State, Zip: Fairbanks, AK 99701

### Case Number 2

**Case Name:** State of Alaska **Case Number:** 4FA-16-2164 CR  
**v.** Brandon Ely **Judge Name:** Bethany Harbison

#### Attorneys Involved:

Name: Brent Bennett	Name: Sarah Simpson
Address: OPA, 100 Cushman St. Ste. 201	Address: DAO, 510 2nd Avenue, Ste 200
City, State, Zip: Fairbanks, AK 99701	City, State, Zip: Fairbanks, AK 99701
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

### Case Number 3

**Case Name:** State of Alaska **Case Number:** 4FA-15-1701 CR  
**v.** Bonnie Adams **Judge Name:** Bethany Harbison

#### Attorneys Involved:

Name: Frank Spaulding	Name: Lisa Kelley
Address: 1221 Noble St.	Address: DOL, 310 K St. Suite 601
City, State, Zip: Fairbanks, AK 99701	City, State, Zip: Anchorage, AK 99501
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.

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.

## Additional Comments (Continued)

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.

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 five photographs of yourself with your application.

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

# Biographical Statement

Name Bethany Harbison

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

Court of Appeals  
\_\_\_\_\_

*Please leave this area blank*

Date: July 18, 2018

After college, I lived and worked in China and then enrolled in law school. In 1993, I graduated from Harvard Law School and began working as a law clerk in Fairbanks.

From 1995 to 2005, I worked as an attorney for the Public Defender Agency, doing felony and misdemeanor cases, CINA and juvenile delinquency cases, and appeals.

In 2005, I returned to the court system, accepting a job as a magistrate and standing master. Then, in 2012, I was appointed to the superior court. I have a mixed criminal and civil docket.

In the past, I taught criminal law for the University of Alaska and served on the Board of Directors for the Alaska Legal Services Corporation. Currently, I serve on a wide range of court panels and committees.

I am involved in local sports and community organizations.