

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In re **TIMOTHY D. DOOLEY,**)
)
Judge of the Superior Court,)
Second Judicial District at)
Nome, Alaska,)

FILED
OCT 14 2016
APPELLATE COURTS
OF THE
STATE OF ALASKA

Supreme Court No. 516495

Alaska Commission on Judicial Conduct

Accusation No. 2016-009

RECOMMENDATION FOR DISABILITY RETIREMENT

Procedures before the Commission

This matter was brought to the attention of the Alaska Commission on Judicial Conduct ("Commission") by letter dated August 22, 2016 . At its regular meeting on September 23, 2016, the Commission determined that it would consider the matter on an expedited basis and determine whether Probable Cause exists for a recommendation of disability retirement. The Commission found Probable Cause on a vote of 7 in favor and 1 opposed at that meeting. Formal charges issued on September 26, 2016.

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A Formal Disciplinary Hearing pursuant to AS 22.30.0119(b) and Alaska Commission on Judicial Conduct Rule 14 took place by teleconference on October 7, 2015.

The attached Commission Findings and Recommendation is filed pursuant to Article IV, section 10 of the Constitution of Alaska, AS 22.30.011 (d)(2) and Rule 406 of Alaska's Rules of Appellate Procedure.

SUBMITTED by the COMMISSION ON JUDICIAL CONDUCT, through its Executive Director, this 14th day of October 2016.



Marla N. Greenstein (Bar No. 9708048)
Executive Director
Commission on Judicial Conduct

RETURN

I served the above order on Judge's Counsel William Satterberg (Bar No. 7610126) on the 14th day of October 2016, electronically and by certified mail.



Signature

Administrative Assistant

Title

Jessica Richter

Name

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FINDINGS AND RECOMMENDATION

Introduction

The Alaska Commission on Judicial Conduct filed a complaint against Superior Court Judge Timothy Dooley concerning his physical ability to serve as a judge. At the formal hearing, the Commission considered written testimony from Judge Dooley's physicians. Judge Dooley was represented by counsel at the hearing. The Commission's executive director presented the written materials. After considering the medical testimony and the statement of counsel, the Commission agreed on a vote of 5 to 2 that there is clear and convincing evidence that Judge Dooley suffers from a disability that seriously interferes with the

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performance of judicial duties and that is or may become permanent under AS 22.30.011.

Findings of Fact

(1) On January 26, 2016 Judge Dooley was medevaced from Nome to Anchorage suffering from a serious illness that has prevented him from serving as a judge since that date.

(2) On June 10, 2016 Judge Dooley wrote to the Chief Justice requesting a petition to the Governor seeking medical retirement. On June 14, 2016 Chief Justice Stowers replied, acknowledging that he would write a letter to the Governor requesting the mandatory medical disability retirement as soon as he received a letter or other documentation from Judge Dooley's physicians explaining the nature of the medical disability and rehabilitation needs.

(3) On June 28, 2016 Chief Justice Stowers wrote to Governor Walker requesting that the governor exercise his authority to place Nome Superior Court Judge Tim Dooley on mandatory retirement for medical disability and stating that Judge Dooley concurs with the request. A letter from Judge Dooley's treating physician accompanied that request.

(4) On July 14, 2016 the Department of Law sent a legal memorandum to Governor Walker that concluded the statutes applicable to voluntary retirement for incapacity only apply to judges with 5 years of service pursuant to AS 22.25.010 (c), and that those judges who do not meet that requirement must go through the alternative procedure under AS 22.30.011 (d)(2) on recommendation of the Alaska Commission on Judicial Conduct.

(5) The attached affidavits of JRF, DO and KDM, MD provide medical assessments of Judge Dooley's current inability to function as a Superior Court Judge in Nome, Alaska and assert that he is unlikely to be medically fit to perform those duties in the foreseeable future.

Recommendation

AS 22.30.011 (a)(2) requires this Commission to inquire into an allegation that a judge suffers from a disability that seriously interferes with the performance of judicial duties and that is or may become permanent. AS 22.30.070 (c) provides on recommendation of the commission the supreme court may (1) retire a judge for disability that

seriously interferes with the performance of duties and that is or may become permanent.

As the Commission has no independent expertise to evaluate disability under the statute, the Commission requested testimony from the judge's treating physicians. The testimony of those physicians supports the recommendation of disability retirement. Due to the confidential nature of personal medical information, those affidavits are provided to the court as confidential documents.

Dated this 11th day of October, 2016.



Amy Gurton Mead
Chairperson
Alaska Commission on Judicial Conduct