

MINUTES

Commission on Courts of Limited Jurisdiction (COCOLJ)

Helena, MT – via ZOOM and In-Person

January 28, 2022

Members Participating In-person, Via Telephone or Video: Hon. Perry Miller, Hon. Holly Frederickson, Peggy Tonon, Hon. Kelly Mantooth, Valerie Armstrong, Hon. Jessie Connolly, Hon. Steve Fagenstrom, Hon. Heidi Ulbricht, Hon. Jim Rice, Scott Twito, and Brian Smith.

Members Absent: Charlie Harball and Hon. Steve Bolstad

Staff Present: Shauna Ryan

Guests: None

Judge Miller called the meeting to order at 12:05 p.m. He began by introducing and welcoming newly appointed member, Valerie Armstrong. Ms. Armstrong is the new president of the Clerks Association, replacing Tina Reinicke who resigned in December.

OLD BUSINESS:

Minutes

The minutes from the meeting on November 19, 2021, were reviewed. Judge Mantooth moved that the minutes be approved. Peggy Tonon seconded the motion and it carried unanimously.

Personal Attendance at Conferences – Incorporate Resolution into the Rules

Shauna Ryan indicated this was addressed at the last meeting and was ready to be approved. The resolution was approved; however, Peggy Tonon was not in attendance at the meeting and didn't have an opportunity to review the resolution. Shauna and Peggy visited after that meeting and Peggy had a couple of grammatical corrections. Judge Connolly and Shauna also discussed afterwards about how the resolution was going to be incorporated into the rule or how it would be attached to the rules for reference. Judge Fagenstrom then suggested that the matter be tabled until this meeting, thereby giving everyone an opportunity to review the rules and the resolution together. Judge Connolly felt the resolution did need to be incorporated into the rules somehow and thought referring to it in Rule 4 seemed like a good option. Shauna wondered if it could be referenced at the end of Rule 4 (1)? Brian Smith asked if there was a separate process to amend the rules? Shauna responded that in the past when there have been some amendments to the rules, it was determined that because they were the Commission's internal operating rules that they did not need to be approved by the Court. Justice Rice said that the Court's attitude about rule changes is that they would rather not be involved unless it's something monumental and they need to get involved. He felt it was fine to proceed like we have in the past. Peggy Tonon thought the language from the actual resolution should be under Rule 4. Judge Fagenstrom said when he started this whole process, he viewed the rule and everything we were looking at as requiring your personal attendance to begin with, but then we started getting questions from other folks about whether virtual presence was sufficient to constitute attendance. Judge Fagenstrom's idea all along was that we needed something definitive that explained that all of the things we're reading together mean that you must attend in person. He didn't think we had changed anything and was always under the impression that we were simply just clarifying what has always been in place. He didn't intend to change the rule by adding language, but it was simply to

make it very clear that personal attendance is required. If folks continue to have questions, then we could point them in all different directions – the resolution, the statute the supreme court rulings. Judge Frederickson agreed with Judge Fagenstrom that we need to add the word “personal” into the rule, but she thinks it might be clearer to have a subsection 7 that says the reference to personal attendance is stated heretofore, followed by the resolution. If it’s written in the rule then there’s no question about what, where, why, etc. Judge Connolly agreed that we are going to have to change the rule by adding the actual language from the resolution. Judge Connolly moved that we amend the rules first by adding “personal” in front of the word “attendance” of Rule 4 (1); and then add (7) at the end of Rule 4. Rule 4 (7) would read “A. All Justices of the Peace, City Court and Municipal Court Judges appointed or elected within the State of Montana shall attend the two annual training conferences presented by the Montana Supreme Court’s Commission on Courts of Limited Jurisdiction and the Supreme Court Administrator’s Office. B. Attendance shall be in person unless a waiver of training has been granted by the Montana Supreme Court’s Commission on Courts of Limited Jurisdiction. C. Per Montana Code Annotated sections 3-6-202, 3-1-1502, and 3-1-1503, no elected or appointed judge will remain in office unless they attend both conferences or obtain the necessary waiver provided by the Rules for Courts of Limited Jurisdiction Training and Certification of Judges.” Judge Fagenstrom seconded the motion. Judge Mantooth moved to table the current motion. Judge Fagenstrom seconded the motion and it carried unanimously. Judge Fagenstrom moved to approve the amended resolution as read into the record by Shauna Ryan. Judge Mantooth seconded the motion and it carried. Brian Smith was opposed. Judge Connolly moved to approve the additional language as discussed above in Rule 4 of the Rules for Courts of Limited Jurisdiction Training and Certification of Judges. Judge Fagenstrom seconded the motion and it carried unanimously. Shauna will add the amendments to the Rules as discussed and circulate them, along with the resolution, to all the judges prior to the upcoming conference in April.

Bond Book

Judge Fagenstrom reported that after the last Commission meeting, the Supreme Court authorized the bond book just prior to the new laws taking effect in January. Almost immediately there were some issues raised. The numbering in the book apparently did not correspond with how the highway patrol uses our spreadsheets to incorporate them into their electronic ticket writing program. For reasons not fully understood, all the DUI statutes didn’t get written properly out of their ticket system. We are now working on trying to get the bond book modified so that the folks that are using it as their electronic data base for their ticket writing programs get it right. The statutes are right, the bond book is just being modified so that the statute tables can be incorporated into the various electronic programs. The numbers are right, the amounts are right, the statutes are right, it’s just the electronics that are the issue. Hopefully we’ll have a revised version of it out on the website soon so law enforcement and Full Court can get it right as well as the folks looking at the book itself.

NEW BUSINESS:

Spring 2022 COLJ Conference – Update

Shauna Ryan reported that most of the presenters had been contacted, except for Justice Gustafson who will discuss a defendant’s ability to pay and examination prior to setting bond and sentencing. Shauna asked for additional clarification on exactly what the Commission wanted her to talk about and how that would differ from Judge Burman’s and Judge Bolstad’s session in the afternoon on bonds and warrants. Shauna also brought forward a request from Ben Halverson, city attorney in Billings, to talk to the judges about the lethality assessments they use in Billings and how they would be beneficial statewide. The Commission decided that due to the press of other business we wouldn’t have time for this topic on our spring conference agenda. If he’s still interested in presenting the information next year, we can consider it for placement on the Spring 2023 conference agenda. Brian Smith suggested that defense counsel also be part of the presentation for balance. Shauna will let Mr. Halverson know.

2022 Certification Test – Prep/Planning

The Certification Test Committee consists of the non-limited court judge commission members: Peggy Tonon, Judge Ulbricht, Charlie Harball, Valerie Armstrong, Scott Twito and Brian Smith. Peggy Tonon agreed to chair the committee. The committee will meet periodically between now and the certification school. The Commission reviewed the 2018 certification conference agenda and confirmed the categories, along with suggested presenters for each session. Shauna Ryan will begin contacting presenters.

Request for Temporary Certificate and Waiver of Training for New Judge

Hon. Randi Braddock (Beaverhead County JP), Hon. Caitlin Overland (Whitefish Municipal), Hon. Linda Switzer (Wibaux County JP), Hon. Ronald Traenkner (Troy City), Hon. Jacob Coolidge (Missoula Municipal), Hon. Jennifer Streano (Missoula Municipal), Hon. Eli Parker (Missoula Municipal), and Hon. Allysen Jones (Ronan City): On behalf of the waiver committee, Peggy Tonon recommended the temporary waivers be approved. The Commission concurred. Judge Frederickson clarified who would be training each new judge.

Adjourned: The meeting adjourned at 2:45 p.m.

Next Meeting Date: The next meeting will be Friday, February 18, 2022, at 8:30 a.m. in Helena.

May 23, 2022