

MINUTES

Commission on Courts of Limited Jurisdiction
KwaTuqNuk Resort, Polson, Montana
April 28, 2008

Chairman Johnny Seiffert brought the meeting to order at 12:10 p.m.

Members Present were: Hon. Johnny Seiffert, Hon. Gayle Stahl, Hon. Scott Wyckman, Hon. Mary Jane Knisley, Shaun Donovan, Hon. Perry Miller and Hon. David Ortley. Hon. Doug Harkin joined via telephone.

Members Absent: Margaret Tonon and Barbara Pepos tried to telephone in, but were unable to get connected. Paul Luwe and Supreme Court Liaison Justice Jim Nelson were excused.

Staff Present: Beth McLaughlin and Karen Sedlock

Others Present: Hon. Larry Carver and Hon. Michele Snowberger

PUBLIC COMMENT: Judge Snowberger informed the COLJ that she has been hired by Karen Nelson, in the Court Administrator's IT office to draft rules and frequently asked questions for the Privacy Rules. Judge Snowberger asked if the Montana Code of Judicial Conduct was going to be discussed during the conference since the proposed code is now ready for comment. Judge Ortley stated the issue would be covered in the Nuts and Bolts portion of the conference.

Video Presentation on Orders of Protection by Hon. Larry Carver: After reviewing the video on Orders of Protection in Idaho, a motion was made by Judge Miller to adopt the recommendation of the automation committee, that Montana use the same format, and that staff work with Judge Carver to draft a letter to the Attorney General's Office for Chairman Seiffert's signature; asking them to review the draft orders and let the Commission know if they are in agreement of adopting it with adaptation to Montana Law. The motion was seconded by Judge Stahl and passed unanimously.

TO DO: Staff will work with Judge Carver to draft a letter to the Attorney General for Chairman Seiffert's signature with a copy to Ali Bovingdon, Justice Jim Nelson, Karen Nelson, Lonnie Brown and Hon. Larry Carver.

MINUTES: The minutes from the March 7, 2008 meeting were reviewed. A motion was made by Judge Ortley and seconded by Judge Stahl that the minutes be approved as written. The motion passed unanimously.

OLD BUSINESS:

Speedy Trial Opinion: At the October meeting Judge Knisley reported on a decision by the Supreme Court dated August 16, 2007, State of Montana v. Kingsley Ariegwe. The

Opinion revamps the speedy trial analysis. Judge Knisely is concerned that the misdemeanor issue was overlooked. Mr. Donovan spoke with Mark Mattioli from the Attorney General's Office, but did not address the misdemeanor issue. There is nothing further for the commission to do at this time.

Jurisdiction Issues: Judge Marilyn Kober, Justice of the Peace in Stillwater County forwarded a memo to the Commission that she wrote January 23, 2008 to John Petak, Stillwater County Attorney. It was brought to her attention that an issue has been raised regarding a JP's jurisdiction to hold court in another county. She asked the Commission to review this issue. Judge Ortley cited Section 3-1-113, MCA, stating there is nothing in statute addressing a physical location.

Shaun Donovan talked to a few County Attorneys and they did not see any problem with judges crossing into another county. This is an issue that my have to be addressed by the legislature. There is nothing further for the commission to do at this time.

Is the 2006 Certification Book public information? On February 22, 2008, Karen Sedlock received a phone call from a woman in Sanders County requesting a copy of the 2006 COLJ Certification Training Manual. A motion was made by Prof. Tonon to table the discussion until the April meeting, and ask the Commission's liaison member, Justice Nelson for his opinion. The motion was seconded by Hon. Perry Miller and passed unanimously.

Beth McLaughlin reported that she did get confirmation from Justice Nelson that the certification book is a matter of public record. Karen Sedlock sent the book as requested. The book will also be available in the Law Library.

Letter of Concern from Polson Resident: On March 4, 2008, Ms. Sedlock received an email from Mr. Robert Nice in Polson regarding his concern for the lack of follow through on convictions and simple office procedures in the Lake County Justice Court.

Judge Ortley reported that he visited Judge Wall and was informed that all court procedures are being followed. Ms. Sedlock contacted Mr. Nice and informed him that the Commission was sending an independent judge to look into the matter.

Future Conference Locations: Karen Sedlock reported on possible dates and locations for future schools. The following are recommendations made by the commission on dates and locations for future conferences.

2010 Fall Certification Conference will be held at the Hilton Garden Inn in Missoula November 7-13, 2010.

2011 Spring Conference date will be moved to May 2 through 5, 2011, because Easter falls on April 24th this year. The conference will be held at the Heritage Inn in Great Falls.

2011 Fall Conference will be held October 2 through 6, 2011 at the Hilton Garden Inn in Kalispell. Overflow for the clerks will be available at the Areo Inn or the Outlaw Inn.

2012 Spring Conference will be held April 22 through 26, 2012 at the Rock Creek Resort in Red Lodge. Overflow will be at the Pollard Hotel in Red Lodge.

2012 Fall Conference will be held at the Best Western GranTree Inn in Bozeman. Overflow for the clerks will be available at the Holiday Inn in Bozeman.

TO DO: Karen Sedlock will contact each hotel, verify location and dates, and sign contracts.

Survey Monkey: Reminder, evaluations for this conference will be done electronically.

Transfer of Civil Cases into City Courts: It was brought to the Commission's attention that Judge Strine, Sander's County Justice of the Peace, expressed his intention of unilaterally transferring all civil cases into city courts. The Hon. Greg Mohr, the Commission's training judge, visited with Judge Strine and the other two judges in Sanders County on three separate occasions. Judge Mohr reviewed the statutes and informed Judge Strine that pursuant to statute, he cannot deny a civil filing in his court. The matter should now be resolved. Beth McLaughlin contacted Mark Russell and informed him that training judges visited with Judge Strine and the matter should now be resolved. She also suggested if further problems surface, he should notify the Commission immediately.

Shaun Donovan reported that he looked into the matter and also recommended that the MMA training judges handle the matter, which they are doing.

NEW BUSINESS

Formal Complaint: FYI A formal complaint has been filed against Judge Gary Hicks of Libby.

Waiver of Training: FYI Judge Glenn Frame requested and was granted a waiver of training for this school due to illness.

Next Meeting Date: The next meeting will be held Friday, June 20, 2008, beginning at 8:30 a.m. Judge Stahl invited the commission to meet in Malta. Staff will poll the commission members, will set a location, and notify all commission members of the exact time, date and location.

Adjournment: The meeting adjourned at approximately 3:00 p.m.