

MINUTES

Commission on Courts of Limited Jurisdiction
Holiday Inn Parkside, Missoula, Montana
April 24, 2006

Chairman, the Hon. Johnny Seiffert, called the meeting to order at 3:05 p.m.

Members Present: Hon. Johnny Seiffert, Hon. Mary Jane Knisely, Hon. David Ortley, Prof. Margaret Tonon, Hon. Scott Wyckman, M. Shaun Donovan, Paul Luwe, Hon. Doug Harkin, Hon. Gayle Stahl, and Hon. Perry Miller.

Member Absent was: Justice Jim Nelson and Sharon Skaggs.

Staff Present: Beth McLaughlin and Karen Sedlock.

Guests: Lois Menzies, Court Administrator: Hon. Ralph J. Dukart, Jr.; Hon. Anna K. Straub; Hon. Glenn Frame; Hon. Michele Snowberger; Hon. Larry Carver; Hon. Jessie McKenney; Hon. Carol Anderson; and Hon. Gail Beckham.

INTRODUCTION: Chairman Seiffert introduced the new Court Administrator, Lois Menzies. Ms. Menzies has worked in the Administrative and Legislative Branch of Government and now has accomplished her goal to work in the Judicial Branch. Lois was formerly the Executive Director of Legislative Services. Welcome Lois.

PUBLIC COMMENT: Hon. Michele Snowberger thanked the Commission for addressing the issues on the bulletin board.

MINUTES: A motion was made by Prof. Tonon and seconded by Mr. Luwe that the minutes of the February 17, 2006 meeting be adopted as written. The motion passed unanimously.

OLD BUSINESS:

On-line Training: Judge Harkin will work on the project and give an update at the next meeting.

TO DO: Judge Harkin will provide an update on his WebEx course on Evidence at the next meeting. Staff will put this on the agenda for June.

Leadership Institute: Karen reported that Montana has been selected as one of the states to attend the Leadership Institute this fall. There was some concern expressed during the meeting about what judges would be available to attend since several judicial positions are on the ballot this year and many of those races are contested.

A motion was made by Judge Stahl and seconded by Judge Knisely that the commission open the slots up to the general MMA membership to see if there was anyone interested. The motion passed unanimously.

Beth McLaughlin stated it might be better to postpone attending the Leadership Institute until next year.

TO DO: Staff will place this item on the June agenda.

Bail Upon Appeal: This matter was tabled until the June agenda.

TO DO: Staff will duplicate the letter from the Gallatin County Justice Court and place the bail issue on June agenda.

Certification Testing: The Commission announced that numbers would be used instead of names to identify those taking the certification test.

TO DO: Staff will develop an appropriate numbering system to be placed on the certification tests for identification purposes.

Spring 2007 Conference:

TO DO: Because of the illnesses suffered from previous conference participants at the Rock Creek Resort in Red Lodge, Staff will contact the Resort and verify that appropriate repairs have been made to the facility so it will be safe for the judges to attend school there in the Spring of 2007.

NEW BUSINESS:

Training Issues: Two limited court judges have recently resigned, Pat Sanders and Larry Murphy.

Karen reported that judges are not giving their 40-day notice for Waiver of Training. Many waivers were received just a day or two before the conference began. Judge Seiffert will remind judges of the 40-day notice policy during this weeks training.

Commission Member Terms Expire: Several Commission members' terms will expire in June of this year. They are: Paul Luwe, Judge Harkin, Judge Knisley and Shaun Donovan. Beth asked for a show of hands for those interested in continuing to serve. All four raised their hands. Beth will send a letter to Justice James Nelson, indicating all four members are interested in continuing their service on the Commission, and recommend they be reappointed.

Ethics Question: Judge Beckham raises the question, "Does a paid presentation by a judge violate the Canons of judicial Ethics?" The judge could be reimbursed for travel and per diem, but cannot ask for or be paid an honorarium. It would be unethical for a

judge to act as a liaison or promoter for a product or a training. Judge Harkin reports, there is a good article in the Judicial Conduct Reporter by Cynthia Gray for those interested in reading it.

Double Proxy Marriages: The Honorable Gordon Smith, Justice of the Peace from Bozeman raises the question, "Can Montana courts perform double proxy marriages?" After a brief discussion, it was the consensus of the Commission that the statute allows for it, if the paperwork is in order.

Rocky Mountain Traffic School: A letter was received from the Rocky Mountain Traffic School requesting that they be allowed a minimal amount of time at our next meeting to review their program and/or allow them to be present during one of the study dates at the next conference. It was decided that a response should be made asking them to let us know what changes were made. If it is important, something could be put in the judicial newsletter.

TO DO: Beth will write a letter asking them to identify changes.

Uniform Reporting of Case Statistics: Beth reported frustration with the statistical reports that are coming in from the various courts. Several of the cases seem to be lumped together and are difficult to read. She suggested that the commission review the form and develop a more user-friendly form. This issue shall be placed on the June agenda.

TO DO: Staff will place this item on the June agenda and obtain a copy of the form that is currently used for the commission's review.

Deferral of Traffic Citations: Shaun Donovan raised a concern over the inconsistency with which the statutes that limit the ability to imposed deferred sentences are being followed. Pursuant to Sec. 46-18-204, MCA, whenever the court has deferred the imposition of sentence and after termination of the time period during which imposition of sentence has been deferred, upon motion of the court, the defendant, or the defendant's attorney, the court may allow the defendant to withdraw a plea of guilty or nolo contendere or may strike the verdict of guilty from the record and order that the charge or charges against the defendant be dismissed.

Mr. Donovan suggested there be training emphasizing the recent changes in the law concerning deferred sentences, as well as the necessity of having every sitting judge exercise his or her discretion only within the limits authorized by law.

Judicial Discretion: Judge Jessie McKenney addressed the commission about a concern she has regarding criminal juvenile issues. She has an order from her District Court Judge directing that all Alcohol/Tobacco issues must be written into the Juvenile Probation Office. There is an opinion from the AG's Office regarding this issue. Beth will get a copy to the COCOLJ members. The Commission recommended that Judge McKenney talk to the prosecutor about the issue.

Next Meeting Date: Because there will not be a quorum for the May 19, 2006 meeting, it will be canceled. The next Commission meeting will be Friday, June 16, 2006 in Room 328 of the Court Administrator's Office, at 301 S Park Ave, in Helena, Montana. The meeting will begin at 8:30 a.m.

Adjournment: The meeting was adjourned.