

MINUTES

Commission on Courts of Limited Jurisdiction
Butte, Montana
October 1, 2007

Chairman Johnny Seiffert brought the meeting to order at 12:00 noon on October 1, 2007.

Members Present including Chairman Seiffert were: Hon. Mary Jane Knisley, Hon. David Ortley, Hon. Doug Harkin, Hon. Gayle Stahl, Hon. Scott Wyckman, Prof. Margaret Tonon, Shaun Donovan, Hon. Perry Miller, Barbara Pepos and Paul Luwe

Members Absent: Supreme Court Liaison Justice Jim Nelson.

Staff Present: Beth McLaughlin and Karen Sedlock

Guests: Hon. Greg Mohr, Hon. Larry Carver, Hon. Traci Harada, Hon. Anna Straub, and Hon. Michele Snowberger.

PUBLIC COMMENT: No public comment

MINUTES: The minutes from the August 17, 2007 meeting were reviewed. A motion was made by Judge Stahl and seconded by Prof. Peggy Tonon that the minutes be approved as written. The motion passed unanimously.

OLD BUSINESS:

Update on Training Visits: Hon. Greg Mohr was appointed mentoring judge for Hon. Leland Spotted Bird. Judge Mohr gave a report on his training visit to the Hon. Leland Spotted Bird, City Judge in Brockton. Judge Mohr is concerned that each ticket written is the same violation, Sec. 61-8-309, MCA., a speeding ticket. Numerous tickets have been processed through the court and there is no prosecutor. Judge Spotted Bird states all offenders have pled guilty.

On July 31, 2007, Judge Spotted Bird took and failed the certification test. Judge Spotted Bird requested an opportunity to retake the test and received a temporary certificate of training. Since that time, Judge Mohr has phoned Judge Spotted Bird on several occasions, leaving messages to return his call. Judge Spotted Bird has not called back.

A second certification test was scheduled at 9:00 am on Monday, October 1st in Butte. Ms. Sedlock sent him two letters informing him of the time and date of the test. Judge Spotted Bird failed to show up and take the test. Beth McLaughlin also reported that Judge Spotted Bird has not sent in his registration form to attend the mandatory fall Courts of Limited Jurisdiction Conference nor has he paid the registration fee.

The Commission decided to defer action on this matter until 8:00 a.m. on October 2, 2007, the scheduled time for the conference to begin. If Judge Spotted Bird appears, he will be given an opportunity to take the certification test at that time. If he fails to show up, the Commission will call a special meeting at 9:00 a.m. and decide how to proceed.

MIP Issue: The Commission discussed the concern again that had been raised by judges about whether MIPs were cumulative when a person received one when under the age of 18. Judge Knisley states the issue keeps expanding. She agreed to put together a draft letter to submit to the Attorney General's Office. She will ask Mr. Luwe to review it first.

TO DO: Staff will place this issue on the agenda for the next COCOLJ meeting.

Fee Schedule for Municipal Courts: Mr. Paul Luwe wrote a letter to the Attorney General's Office inquiring about fee schedules for Municipal Courts and whether a city with self-government power may provide for fees in excess of those provided by the Legislature. Because his questions are resolved by reference to statute, he received an informal letter of advice rather than a formal opinion.

Montana Code Annotated Section 25-30-102(1)(a), authorizes fee and fines in Municipal Court. That provision specifically references fees "provided by law or ordinance," and thus contemplates that a city may set Municipal Court fees by ordinance.

TO DO: Staff will send the Attorney General letter of advice to all Municipal Court Judges.

NEW BUSINESS

Speedy Trial Opinion: Judge Knisely 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. Given these circumstances, Judge Harkin suggested that the prosecution ask the Supreme Court for reconsideration.

TO DO: Shaun Donovan stated he would review the Opinion and ask Mark Mattioli from the Attorney General's office his perspective. Staff will send the email link to the COCOLJ members and place this matter on the agenda for the November meeting.

Court Location: The County Commissioner's from Valley County informed Beth McLaughlin that they are in the process of building a new detention center. They want to know if the Court can be located in the same building? Commission members stated the court should not be in a secure area, however, if it has a door to the outside with public access, it should not be a problem.

TO DO: Beth will call the County Commission back with a response.

State v Pyette Decision: Judge Larry Carver stated the automation committee has reviewed the Pyette decision and has drafted uniform forms that will be installed in FullCourt. The Commission reviewed this case, which overturned a lower-court ruling regarding the drivers' license suspension process and the case will be discussed during the Nuts and Bolts session at the fall school.

Computerized Order of Protection Form: Judge Larry Carver stated that the automation committee is actively working on a uniform Order of Protection Form that can be installed in FullCourt. The Automation Committee will be meeting again November 2nd 2007 at 10:00 a.m.

Next Meeting Date: There will be no meeting in October. The next meeting will be Friday, November 16, 2007 starting at 8:30 a.m. in Helena, Montana.

Adjournment: The meeting adjourned at approximately 1:55 p.m.

MINUTES – SPECIAL MEETING

Commission on Courts of Limited Jurisdiction
Butte, MT
October 2, 2007
8:55 a.m.

Chairman, the Hon. Johnny Seiffert, called the meeting to order at 8:55 a.m.

Members Present: Hon. Johnny Seiffert, Hon. David Ortley, Hon. Perry Miller, Hon. Doug Harkin, Hon. Gayle Stahl, Hon. Mary Jane Knisely, and Hon. Scott Wyckman

Members Absent: Shaun Donovan (left proxy with Judge Miller), Paul Luwe (left proxy with Judge Miller), Prof. Peggy Tonon (left proxy with Judge Stahl) and Barb Pepos.

Staff Present: Beth McLaughlin

Guests Present: None

OLD BUSINESS:

Attendance and test – Judge Leland Spotted Bird: The Commission met in special session to make a decision about the recommendation that Judge Spotted Bird has vacated his office by failing to appear to retake the certification test and failing to register for and appear at the fall training. Staff confirmed that Judge Spotted Bird had not appeared that morning and had not contacted the Office of Court Administrator with a waiver request.

Judge Ortley made a motion to notify the Supreme Court that Judge Spotted Bird was not in compliance with the Certification Rules and statute and to request an order noticing that Judge Spotted Bird had vacated his office. Judge Stahl seconded the motion.

The motion passed unanimously with proxy votes listed above.

Staff was directed to prepare a letter for the Commission to the Supreme Court requesting the order.

Meeting adjourned by the Chairman at 9:05 a.m.