

# S.D. High Court Disciplines Judge

BY CHET BROKAW  
Associated Press

PIERRE — The South Dakota Supreme Court ruled Thursday that Circuit Judge A.P. "Pete" Fuller of Rapid City must retire unless he agrees to undergo a six-month suspension followed by strict probation for misconduct that included mistreating lawyers, court personnel and others.

In a unanimous decision, the five justices found that Fuller violated constitutional provisions and ethics codes that require judges to conduct themselves in ways to promote public confidence in the judicial system. They said they believe he is capable of rehabilitation.

The justices noted the case marked the first time in the 121-year history of South Dakota's judicial system that the Supreme Court had been asked to remove a judge from the bench.

Fuller damaged the reputation of the judicial system, made insensitive racial and sexist jokes, insulted lawyers, conducted himself on the bench with unconscionable arrogance, used abusive language and rudely mistreated court personnel, the Supreme Court found.

Court decisions are enforced largely by the voluntary compliance of citizens through respect for the rule of law, Chief Justice David Gilbertson wrote for the high court.

"Judge Fuller's misconduct makes it more difficult for every judge in this state to maintain that respect

for our courts and thus our ability to effectively resolve society's legal disputes," Gilbertson wrote.

Thomas Nicholson of Sioux Falls, one of the lawyers representing the judge, said Fuller will decide soon whether to accept the probation option after studying the ruling and talking with his legal team.

"He believes the Supreme Court gave him a fair choice," Nicholson said.

Nicholson said he is pleased the Supreme Court recognized that Fuller was sorry for his inappropriate comments and has been a fair and honest judge in the past.

The Supreme Court's ruling orders Fuller to be retired involuntarily unless he agrees within 30 days to be suspended for another six months without pay and then serve probation for an indefinite time. He would be required to complete an accredited course on judicial ethics and resume therapy for behavioral problems.

After being returned to the bench, any violation of the judicial code of conduct or other terms of the probation would result in the judge's forced retirement, the high court said.

In a hearing last month, Fuller told the Supreme Court he is ashamed of his behavior but that he believes he could return to the bench and be an effective judge. He said he has received counseling to deal with anger and the way he treats people.

"I'm not perfect, but I have changed," Fuller told the justices.

# Neb. Lawmakers Move Congressional Districts Map

BY GRANT SCHULTE  
Associated Press

LINCOLN, Neb. — Lawmakers gave first-round approval Thursday to a congressional map that would pull Nebraska's Offutt Air Force Base and the city of Bellevue out of the district that includes Omaha.

Critics in the officially nonpartisan Legislature assailed the move as a Republican power-grab that shifts traditionally Democratic votes out of the urban 2nd Congressional District. The move also would attach several Republican-leaning suburbs onto the 2nd District.

The map's opponents argued

that the city and military base share more interests with Omaha in the 2nd Congressional district than the 1st Congressional District that includes Lincoln, Fremont and Norfolk. Supporters said the map by Sens. Scott Lautenbaugh and John Nelson of Omaha established contiguous, compact districts.

Omaha Sen. Heath Mello, a Democrat, said Lautenbaugh's plan would move 226,000 Nebraskans out of their current congressional district. Mello said a plan he proposed would only move 77,000 residents. His amendment was rejected.

Lawmakers advanced the measure, 32-8. The bill must move

through two additional votes before it goes to Republican Gov. Dave Heineman.

The proposed map would shift eastern Sarpy County, south of Omaha, into the district represented by Republican U.S. Rep. Jeff Fortenberry of Lincoln.

The Omaha suburbs of La Vista and Papillion would occupy the 2nd Congressional district, represented by Republican U.S. Rep. Lee Terry.

Political scholars have said that could dilute the Democratic presence which helped Barack Obama win one of Nebraska's electoral votes in the 2008 presidential election.

# Judge

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the vacancy.

Gering underwent "a fairly arduous process" on the path to her selection, Rusch said.

"The Judicial Qualifications Commission does background checks and investigations on all of the candidates before they determine who is qualified or not qualified to be a judge," Rusch said.

"The governor makes the selection but is required by law to select only from those candidates who were found to be qualified by the Judicial Qualifications Commission. She will then be up for election in the next judicial election in 2014."

Gering was interviewed separately by the Judicial Qualifications Committee and Daugaard before the governor announced his choice of the new judge.

Daugaard said he chose Gering for both her background and talents.

"I am pleased that Cheryl has agreed to become a circuit judge," the governor said. "Her many years of legal experience, as well as her diligence, common sense and even temperament, will serve the citizens well in southeastern South Dakota."

Gering said she appreciated the faith in her.

"I am grateful that the governor chose to appoint me to the circuit court," she said. "I'm sure many qualified and deserving candidates applied for the position. I'll do my best to serve the people of the state of South Dakota."

Rusch expressed confidence in his successor.

"I am certain that Judge Gering will do an excellent job," he said. "She grew up in northern Yankton County, so she is familiar with the area."

The First Judicial Circuit includes Aurora, Bon Homme, Brule, Buffalo, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, McCook, Turner, Union and Yankton counties.

The southeast corner of the circuit will see some shuffling, Rusch said. Circuit Judge Steven Jensen of Elk Point will take over as presiding judge, and assignments will change for other judges.

Judge Gering has indicated that she would rather have her duty station in Yankton than in Vermillion, as mine was," Rusch said. "This will mean there will be one circuit judge in Elk Point and two in Yankton. However, she will be traveling to handle court cases in Vermillion and

some of the cases in Elk Point.

"I have also authorized Magistrate Judge (Tami) Bern to move her duty station from Yankton to Vermillion so there will be a judge available there if needed for search warrants and things like that."

Gering said she may serve elsewhere in the circuit if needed, such as when a judge is on vacation, has a conflict of interest in a case or needs help with a caseload. As a circuit judge, she could be asked to sit on the South Dakota Supreme Court if a justice cannot hear a case.

Gering foresees a natural transition from arguing in front of the court to hearing the cases.

"Though (as a lawyer) I am the advocate for one person, I am always aware of the other side and what the position is," she said. "As judge, I have to be aware of both sides. I'm not the advocate of one or the other. I hear both arguments."

She sees two primary assets that she brings to the bench.

"My trial experiences bring significant benefits in handling much of what a judge does in the courtroom, whether it's the trial setting or pre-trial," she said. "I have also had a very eclectic practice, very little criminal but a very wide variety of civil cases."

Gering also brings a familiarity of the area to her judgeship.

"My parents farmed on the northern edge of Yankton County. I went to school in Menno, and then 12 years ago, when I was married, we moved to Freeman," she said. "I think it really gave me

the common sense and the (practicality) that I have brought to my practice and now to the bench."

Gering will be sworn into office at Yankton at a date to be determined. In the meantime, she is closing her private practice and turning clients' files over to her partners.

"I have said several times, and I also heard from the governor, that right now you do have a foot in both worlds," she said of the transition. "As far as leaving my partners, there's very mixed emotions. They are extraordinary attorneys. If I hadn't been selected for this judgeship, I would have stayed here (at the firm) until I retired."

"It's sad to leave, but I'm excited for the opportunity," she added.

Gering holds no intentions of resting on her laurels as a judge.

"Every time I walk into a courtroom, I have butterflies, no matter what," she said. "Ellsworth Evans, one of our founding partners, told me, 'If you're not nervous, you're probably not prepared.' You have to be ready for every eventuality."

Gering has already received a warm welcome from other judges. "The South Dakota judiciary is very approachable," she said.

However, she knows that she has big shoes to fill.

"I have a lot of respect for Judge Rusch," she said. "It's going to be quite a challenge for me (to replace him) and a lot to live up to."

# "It is the best of taxes. It is the worst of taxes."

I have tried to remain silent regarding the opt out issue; but I'm compelled to express my thoughts and concerns. I do not want to offend anyone with my opinions and research regarding excessive property taxes and the effect on families, elderly and businesses in our community as a whole. The proposed levy increase for owner-occupied property, agricultural and commercial in the Yankton School District is \$1.98 per \$1,000.00; \$0.63 per \$1,000.00 and \$5.39 per \$1,000.00 respectively.

## What's good about Property Taxes

The inconsistency of the property tax suggests one thing that is good about it. It is an instrument by which some truly local decisions can be made. By having a decentralized tax system, people in one district are not let down by decisions taken elsewhere. Despite the emphasis in some circles on equality, many of us also want freedom and opportunity to act differently from others and want not to be held down to a level set by others who may live in areas that are quite different. Property taxation stands out as a source of strength for local independence.

## What's bad about Property Taxes

Property taxes on real estate will have a direct affect on the price of the goods sold. If an area has a very high property tax rate, it could make the property unattractive. As such, the seller may have to lower the asking price to induce a buyer to agree to the purchase.

Unfortunately for both the seller and the taxing authority (county, state, etc.) this leads to lost value for both. As the high property taxes lower resell value, the overall appraised value of the properties in the area will begin to decrease. Since all property taxes are calculated as a percentage of appraised value, both the seller and the taxing agent see smaller returns.

Most of the criticisms of property taxation depend upon the height of the effective tax rates. Any tax that brings in large revenues is bound to have substantial non-revenue effects. Individuals and businesses alter the way they carry on their affairs in an attempt to reduce the tax burden. Although property tax rates seem small when expressed as percentages. Appearances are deceiving when applied to capital values.

As disproportionate property tax spill on to businesses, it affects decisions about how, where, how much and in what forms to invest in productive facilities and to operate them. The influences that grow out of tax considerations will rarely help companies/businesses to produce more efficiently. For business, in general, taxes are costs without direct benefits. The communities that impose high property taxes will thus be less able to improve their economic base.

## Local Observations

It's a little disheartening the lack of concern for the elderly, budget strapped families and the business community (including agricultural) in Yankton. Some families including a number of senior citizens are already on a fixed budget. Our elderly community is facing cuts to Medicare, (NO COLA) Cost Of Living Adjustments; two year freeze on Social Security increases, escalating utilities, fuel bills and prescriptions. Where will they turn for financial aid? I challenge each of you to do your due diligence by visiting a few local entities.

1. Call and ask a few local real estate agents regarding how could this effect real estate sales in Yankton. I did and it was not very encouraging.
2. Call and visit with the Senior Citizen Center. You would be surprised how many seniors in our community cannot afford a \$3.00 meal.
3. Lastly, visit with some of our local businesses. After surviving a severe recession more taxes will not have a positive effect for our business community.

Please don't interpret my comments as anti-education. But, I feel very adamant about our priorities regarding the benefits for some at the expense of others. I feel many individuals in Yankton have paid their dues and we shouldn't burden them now by raising property taxes. I think we should be thankful for our community including the Yankton School District and what they have accomplished. Concentrate on a more balanced approach before we weigh down our citizens and businesses with more taxes.

Personally, from a home owner and commercial (business) owner, I would like to make the following assumptions. I think if the additional property tax passes, our community may be forced to adapt in ways we have not yet witnessed in Yankton. It's inevitable; the cost of goods sold including services will increase. Regardless, if you own property or rent you will not be immune; the property owner may have to raise rent due to higher taxes. Retail stores, service businesses, grocery stores and restaurants could increase prices. It's a fact of life, cost of doing business goes up and the consumer pays in the end.

I get discouraged when I read it's going to cost just a pizza a month, or \$20.00 - \$30.00 per month. I normally don't share personal financial information but I would like to illustrate how this will affect my property taxes if and when the opt out passes. My increased obligation for property taxes would be \$7106.00 per year commercially, residential and land another \$1074.81 per year. Therefore, a total \$8180.81 per year increase, that's additional taxes, not including present property taxes. Next time you're driving down Main Street or Broadway ask yourself the impact this may have on our local businesses.

I understand this is a very precarious situation our community is in. We all want the best for the youth of Yankton. We all want the best for Yankton families, businesses, (farming and non-farming) and future business growth. It's unfortunate, but I really think we need to look at the entire community as a whole and how this could influence it.

I have lived in Yankton 47 years, raised my family in Yankton. I attended Yankton Public Schools and I have only the utmost respect for both. My goal in completing this letter is strictly one of admiration and respect for our community and schools. Rather than be isolated as a "No or Yes" vote regarding the opt out, I would like to be considered an affirmative activist for the Yankton Community. All my family and I want is what's best for the Yankton population to flourish and remain a vital community with a bright future.

Lastly, regardless which side of the issue you're on. If I may quote one of my favorite teachers Miss Kribell, Middle School Civics Class, "The ballot is stronger than bullets".

So make sure you vote.

Thank you

Pete Ehresmann

Paid for by Pete Ehresmann

## Cornerstone Evangelical Church

meets at

### Stewart Elementary School

208 W. 21st, Yankton

10:30am Morning Service

Nursery provided

Pastor Omanson is preaching a series of detailed sermons from the Book of Revelation



Mr. and Mrs. Todd Knutson

## Happy 25th Anniversary on May 24th

Todd & Lori Knutson  
29837 NE Jim River Rd  
Utica, SD 57067

Did you just read that and have questions? Go to [www.optoutmythbusters.com](http://www.optoutmythbusters.com) and learn more.

Paid for by David Hosmer and Ross Den Herder.