STATE OF MINNESOTA

COUNTY OF CHISAGO

COMMITMENT APPEAL PANEL

Appeal Panel File No. AP18-9161
County File No. 13-PR-09-20

In the Matter of the Civil Commitment of:

Jeffrey David Holmgren,
a.k.a. Jeffery David Holmgren

ORDER

The above-entitled matter came on before the undersigned Judges of the Commitment Appeal Panel on February 3, 2020, at the Ramsey County Courthouse, Saint Paul, Minnesota, for a Part II hearing on a petition for rehearing and reconsideration.

Jeffrey David Holmgren ("Petitioner") appeared personally and was represented by Cheri Templeman, Esq., and Jill Avery, Esq. The Commissioner of Human Services ("Commissioner") was represented by Anthony Noss, Esq., Assistant Attorney General. Aimee Cupelli, Esq., Assistant County Attorney, appeared on behalf of Chisago County ("County").

This matter was before the Commitment Appeal Panel for rehearing and reconsideration of the Special Review Board's recommendation, dated November 19, 2018, to deny Petitioner's requests for a provisional discharge and a full discharge. At the May 23, 2019 hearing, Petitioner withdrew his request for a full discharge. Accordingly, the hearing proceeded on the issue of provisional discharge only. Petitioner's Exhibits 101 through 115 were received into evidence. The Commissioner did not offer any exhibits at that hearing.

At the February 3, 2020 hearing, the Commissioner offered Exhibits 1 through 26, which were received into evidence. No additional exhibits were offered by Petitioner.

Based upon the proceedings, the Court now makes the following:

FINDINGS OF FACT

Procedural History

1. Petitioner was committed as a Sexually Dangerous Person ("SDP") to the Minnesota Sex Offender Program ("MSOP") on May 10, 2011.
2. Petitioner petitioned the Special Review Board ("SRB") for a provisional discharge and a full discharge from his civil commitment as an SDP.
3. A hearing was held via interactive video before the SRB on October 18, 2018.
4. As stated above, the SRB issued its Findings of Fact and Recommendation, dated November 19, 2018, which recommended denying Petitioner's request for a provisional discharge and a full discharge.
5. Petitioner filed his petition for rehearing and reconsideration, and the matter was set for a full-day Part I hearing on May 23, 2019.
6. Following the hearing, the Panel ordered a Part II hearing to be scheduled on the issue of provisional discharge only, and this matter was set for a full-day Part II hearing on February 3, 2020.

Background

7. Petitioner is a 49-year-old man who currently resides at Community Preparation Services ("CPS") within the MSOP system in St. Peter, MN. He is currently in the third stage of the four-stage progression of the CPS program and in Phase III of the MSOP three-phase treatment program.
8. Petitioner committed charged and uncharged sexual offenses against minor and adult females. He has admitted to 400 to 500 acts of exhibitionism, in addition to other offenses.

Testimony and Evidence from Part I hearing

9. Dr. Nicole Elson, Director of the Arousal Management program at MSOP, testified at the May 23, 2019 hearing and discussed her role and the program. She testified that she was aware that Petitioner was participating in the program, but she was not aware of his specific progress and has not participated in any program planning for Petitioner.
10. Ms. Kelly Meyer, Arousal Management Clinician, also testified at the hearing and stated that she worked with directly with Petitioner on his arousal management plan. She explained that he utilizes "minimal arousal conditioning," also known as "MAC," and "he has made solid progress to manage his deviant arousal." Although she is not a licensed psychologist, she has been providing treatment at MSOP for 15 years and has knowledge regarding all aspects of the arousal management program.
11. Mr. Nicholas Weertz, Security Counselor at CPS, testified that he has known Petitioner for approximately three or four years. Although he is not a clinical team member, he is part of the treatment team and communicates with the clinical team. He stated that does not have concerns regarding Petitioner's behavior and, in fact, Petitioner has been given extra duties because he is so trusted by staff. He also explained that Petitioner gets along well with his peers and staff, and has the strong support of his peer group.
12. Ms. Anna Pheiffer, Security Counselor at CPS, also testified that she has not had any concerns with Petitioner while he has been out in the community. She has worked with Petitioner for over a year and a half, and he is personable with community members and always has appropriate interactions with people.

13. Petitioner testified regarding his progress at CPS. Currently, Petitioner has liberties that include outings around campus with a peer, staff accompanied off-campus outings, and unaccompanied on-campus outings to his vocational placement. He is in the "Demonstrating Change Across Settings" stage at CPS.

14. He discussed an incident report for exposure that he received in August 2018. He explained that he had a medical concern, which was verified by Health Services, and his treatment team determined that it was not sexually problematic behavior.

15. Petitioner's treatment scores have increased over the past year and he is in the aftercare program of arousal management. Petitioner further testified that he intended to continue his arousal management aftercare program if he were provisionally discharged. He is currently participating in relapse prevention maintenance modules to get ready for provisional discharge. He also explained that a relapse prevention plan, such as his plan, is never complete because it needs to be updated continuously due to changes in a person's life and environment. He agreed that he continues to have treatment needs, including emotional regulation.

16. Petitioner works 22 hours per week as part of the lawn maintenance crew. He also works by providing fulfillment services for the DNR. Petitioner is in the mentoring program and mentors three individuals, who reside in the secure perimeter of MSOP. He is also a member of the CREST program, which is a conflict resolution team. His support network includes family and friends. Petitioner discussed his efforts at being financial responsible.

17. Dr. Paul Reitman was appointed as the Court's Independent Examiner. Dr. Reitman's first report, dated May 9, 2019, was received into evidence at the hearing as Exhibit 114. Dr. Reitman's evaluation was based upon his forensic-clinical interview with Petitioner on

May 6, 2019, as well as his review of applicable records. Dr. Reitman had previously conducted evaluations of Petitioner.

18. Petitioner has been diagnosed with the following: (a) Exhibitionistic Disorder, Sexually aroused by exposing genitals to physically mature individuals, In a controlled environment; (b) Other Specified Paraphilic Disorder, Nonconsenting females, In a controlled environment; (c) Unspecified Anxiety Disorder; and (d) Alcohol Use Disorder, In sustained remission, In a controlled environment. (Ex. 114, p. 7.)

19. In his report, Dr. Reitman did not support Petitioner's request for a provisional discharge. He noted that he did not "believe a reduction in custody is safe for the community," and he "believe[d] [Petitioner] needs to complete this program and receive staff and clinical leadership support.'" (*Id*. at 13.)

20. During the May 23, 2019 hearing, Dr. Reitman testified that he had been "thinking quite a bit," changed his opinion during the hearing, and supported Petitioner's request for a provisional discharge. He explained that this was a difficult and "complicated case," and he had been "on the fence" regarding his recommendation. He stated that his report remained accurate and truthful, but, after listening to the testimony of the witnesses during the May 23, 2019 hearing, he was convinced that Petitioner had been making progress and was "convinced with a reasonable degree of psychological certainty that [Petitioner] will not put the community at risk" if Petitioner were provisionally discharged. Dr. Reitman acknowledged that Petitioner still had some treatment needs and the MSOP clinical leadership did not support Petitioner's provisional discharge request, but Dr. Reitman opined that the community would be safe if Petitioner were provisionally discharged.

21. Dr. Jessica Scharf authored a Sexual Violence Risk Assessment ("SVRA"), dated September 21, 2018, which was received into evidence as Exhibit 101. In her report and at the May 23, 2019 hearing, she testified that, in her opinion, Petitioner meets the criteria for a provisional discharge.

22. In her report, she explained:

> "…[Petitioner] has a number of possible protective factors which may mitigate the risk he poses to the community. He would likely benefit from continued support in addressing remaining dynamic need areas, increasing protective factors, and reintegration to the community. However, [Petitioner's] course of treatment and present mental status suggest that he may be able to make an adequate adjustment to the community, and that his remaining treatment needs can be addressed in an outpatient treatment program.
> …A placement which supports the above detailed areas will provide the opportunities for [Petitioner] to continue to address areas of dynamic need which are remaining and those which are currently managed, increase protective factors, as well as offer protection to the public. Given the totality of information detailed throughout the present assessment, the undersigned opines [Petitioner] meets the statutory criteria for a provisional discharge at this time.

(Ex. 101, p. 31.)

Testimony and Evidence from Part II hearing

23. Dr. Mary Kenning, a risk assessor, testified at the February 3, 2020 hearing, and her report was received into evidence as Exhibit 1. Her evaluation was based upon her review of Petitioner's records and interviews with MSOP staff. (Ex. 1, p. 1.) Petitioner declined to participate in an interview with Dr. Kenning.

24. Although Petitioner is in Phase III, which is the final phase of treatment, and in Stage 3 at CPS, which is the penultimate stage, Dr. Kenning opined that Petitioner's progress has been "slow" since 2017. She testified that his treatment scores are "average," and she opined that he should be receiving higher treatment ratings. She acknowledged, however,

that Petitioner has not taken a break from treatment and has continuously participated in treatment. She asserted that he began to engage in grievance-based thinking and had problems with negative emotionality, which hindered his treatment progress. He externalized blame by placing it on others and did not take responsibility for issues that arose. She explained that this was significant and problematic because MSOP staff are sensitive to such issues with clients; however, other individuals that Petitioner will encounter while provisionally discharged, such as staff at residential placements, are unacquainted with such issues.

25. Although Dr. Kenning acknowledged that Petitioner's behavior regarding his medical issue, which caused him to expose his buttocks, was not sexually motivated, she said it demonstrated his poor judgment and Petitioner should have first talked with staff before making the decision to sleep without a sheet. She asserted that this incident is an example of Petitioner not thinking clearly through issues. She further testified that Petitioner has continued to exercise poor judgment following that incident. She explained that these are issues that pertain to his risk factors.

26. Dr. Kenning used the Static-99R and the Static-2002R to evaluate Petitioner. On the Static-99R, Petitioner's score was 9, which corresponded to the "Well Above Average" risk category. On the Static-2002R, Petitioner's score was also 9, which corresponded to the "Well Above Average" risk category on that tool, as well. (*Id.* at 12-13.) Dr. Kenning explained that her scoring on the Static-99R resulted in a higher score than Dr. Scharf's scoring in the SVRA because Dr. Kenning gave Petitioner an extra point "for a previous conviction for non-sexual violence in his 2008 Stalking offense." (*Id.* at 13.) In her testimony, Dr. Kenning opined that his scores are "exceptionally high."

27. Dr. Kenning also utilized the Structured Risk Assessment – Forensic Version ("SRA-FV"). (*Id.* at 14.) On this tool, "[Petitioner's] records and interview data indicate a need score of 3.63." (*Id*.) "This is an unusually high score, indicating significant additional dynamic factors contributing to risk." (*Id*.)

28. Dr. Kenning scored Petitioner on the Sexual Violence Risk – 20 ("SVR-20"), which is a tool used to assess risk factors that are "clinically and empirically associated with future risk of sexual offense recidivism." (*Id*.) She found Petitioner had 11 of 20 risk factors present, which "suggests a likelihood of recidivism that is well above baseline for adults." (*Id*.)

29. Dr. Kenning also reviewed Petitioner's protective factors, which are "thought to buffer the individual against the destabilizing influence of risk factors." (*Id*.) She evaluated Petitioner's protective factors using the Structured Assessment of Protective Factors ("SAPROF") and found the presence or partial presence of 7 out of 17 protective factors. (*Id.* at 14-15.) In her report, she noted: "It is possible, and perhaps likely, that many of the current protective factors will change substantially or be removed on any change in his status. Such losses can result in destabilization, and losses in other areas as well, including coping abilities." (*Id*. at 15.) In her testimony, she stated that Petitioner's protective factors may not remain stable in a new setting, such as a provisional discharge setting.

30. Overall, Dr. Kenning opined that Petitioner presented with high static risk and dynamic risk factors that remained unmanaged and, as such, she concluded that he did not meet the criteria for a provisional discharge, even when she considered his protective factors. Specifically, she stated that Petitioner continued to require treatment in his current setting because he must address his remaining treatment needs with staff and peers that know him

well. Also, she asserted that his provisional discharge setting would not provide the same therapeutic environment, nor the same level of intensive treatment.

31. Likewise, she opined that Petitioner's provisional discharge plan, Exhibit 112, would not provide a reasonable degree of protection to the public because it does not adequately address Petitioner's present risk factors and remaining treatment needs. She also opined that the plan would not enable Petitioner to adjust successfully to the community.

32. Although Dr. Kenning acknowledged that MSOP clinical leadership supported Petitioner's request for a provisional discharge, she opined that their recommendation was ambivalent.

33. A Special Review Board Treatment Report – Update ("SRBTR Update"), dated December 11, 2019, was admitted into evidence as Exhibit 19. That report contained the recommendation of MSOP clinical leadership, which supported Petitioner's request for a provisional discharge. The recommendation included a summary of Petitioner's treatment progress and his current status:

> "When considering liberty, the courts should consider his overall course of treatment and remaining treatment needs…. This client has progressed to Phase III of the three phase treatment program and is currently focused in CPS on generalizing the changes he has made including utilizing outings into the community to assist in this process. He has established a consistent pattern of using behavioral and cognitive interventions to manage his sexual preoccupation. Conflicts with peers and staff have decreased overall during his course of treatment, but have persisted at a decreased but meaningful level during the past few years in the [CPS] unit. His willingness to recognize his role and seek to repair relationships has been dependent on others holding him accountable and giving him time to manage his defensiveness and accept responsibility. While he is generally rule abiding, he has continued to violate occasional rules and expectations, including in his vocational placement. While his rule violations have not involved violence or harmful sexual behavior, his initial responses to being held accountable are defensive and at times palpably angry and sarcastic. His initial reaction is to argue against the application of the rule rather than accept responsibility and reinvest in maintaining the relationships he has with supervisors and others. Managing his emotions in the moment and building strong prosocial relationships remain areas of potential growth that

> can be addressed through treatment. When considering a location for this remaining treatment, the current setting offers the monitoring and intensity of a residential treatment program built around a modified therapeutic community model. Placement in the community with skilled supervision and outpatient sex offender specific treatment would provide opportunities to generalize his gains beyond what is offered in his current setting. Both options have strengths and weaknesses for this client at this time. The current setting may be better suited to addresses [*sic*] the emotional and behavioral aspects of his remaining treatment needs, but is limited in terms of the range of experiences available to help generalize treatment gains and fully integrate into the community.
>
> Given his overall treatment progress and remaining treatment needs, The [*sic*] MSOP clinical leadership support his petition for provisional discharge."

(Ex. 19, p. 6.)

34. Dr. Jessica Scharf authored a Sexual Violence Risk Assessment – Update ("SVRA Update"), dated December 10, 2019, which was received into evidence as Exhibit 21. In her report and at the February 3, 2020 hearing, she testified that her opinion remained unchanged and Petitioner continued to meet the criteria for a provisional discharge.

35. Dr. Scharf testified that Petitioner is in the reintegration stage of treatment and his remaining treatment needs can be met through an outpatient treatment program. Also, she stated that Petitioner's provisional discharge plan would provide a reasonable degree of protection to the public and enable him to successfully adjust to the community. In the SVRA Update, she also concluded that his provisional discharge plan met the statutory criteria and "considerations for provisional discharge and relapse prevention were detailed and thorough." (Ex. 21, p. 18.)

36. On cross-examination, Dr. Scharf acknowledged that Petitioner continued to have remaining treatment needs and present risk factors, but explained that those could be

addressed in the community with an outpatient treatment program. She further opined that certain risk factors will likely be areas requiring lifelong treatment for Petitioner.

37. Dr. Reitman also testified at the February 3, 2020 hearing that his opinion had remained unchanged from the previous hearing and continued to support Petitioner's request for a provisional discharge. His updated report, date December 26, 2019, was received into evidence as Exhibit 22. Dr. Reitman's most recent clinical interview with Petitioner was on December 20, 2019. Dr. Reitman again stated that he has evaluated Petitioner approximately four or five times over the course of Petitioner's commitment and explained that Petitioner has demonstrated his progress in treatment. In his report, he noted: "I have to observe that even knowing him for almost 10 years, I have seen his maturity and even the way he interacts with me looking at it from a longitudinal point of view." (Ex. 22, p. 25.) In both his report and testimony, he explained how Petitioner has been transparent regarding his core issues and has "powerful insight." Like Dr. Scharf, Dr. Reitman opined that Petitioner will likely have lifelong treatment needs.

38. Dr. Reitman acknowledged that Petitioner has a high static risk score, but opined that Petitioner did not present as a high risk or danger to the public because the provisional discharge plan conditions would mitigate his risk and the reintegration agent would provide adequate supervision.

39. Dr. Reitman also explained that he had "no quarrel" with Dr. Kenning's opinion, but did not agree that Petitioner poses a high risk to reoffend. He testified that Petitioner's level of progress in treatment and the supervision provided while provisionally discharged would address Petitioner's treatment needs and provide adequate safety to the community. Dr.

Reitman further elaborated that outpatient treatment in the community could "probably more effectively" meet Petitioner's treatment needs than his current treatment setting.

40. On cross-examination, Dr. Reitman acknowledged that Petitioner has remaining treatment needs, but asserted that when looking at the totality of the information, Petitioner meets the criteria for a provisional discharge. He explained that his first report remained accurate and truthful, but, after listening to the testimony of the witnesses during the May 23, 2019 hearing, he was convinced that Petitioner had been making progress and was "convinced with a reasonable degree of psychological certainty that [Petitioner] will not put the community at risk" if Petitioner were provisionally discharged. Dr. Reitman asserted that the community would be safe if Petitioner were provisionally discharged, even though Petitioner still had some remaining treatment needs.

41. In his report, Dr. Reitman stated:

> "I can find no specific treatment deficits that are significant enough to suggest that [Petitioner] is not ready for a provisional discharge. I believe that he is, indeed, showing good self-regulation, good mood control, and then assertively interacting with peers.
>
> The most compelling argument for a provisional discharge is that when [Petitioner] was **initially** petitioned for commitment he was first put on a Stay of Commitment. I was one of the initial examiners. I supported a Stay of Commitment and Chisago County agreed. [Petitioner] was revoked due to going into a bar to listen to music even with his probationofficer's [*sic*] approval. At any rate he was revoked and Chisago County at that time withdrew doing a Stay of Commitment because their position then was they did not have the resources to do the supervision. So by default, if you will, he was committed as SDP. The rationale was that he met the statutory criteria and their [*sic*] were not adequate resources to adequately supervise him. Today we have the exact conditions for indeterminate intensive supervision indeterminately [*sic*]. Accordingly his risk is very low."

(*Id.* at 26.)

Legal Standard for Provisional Discharge

42. Petitioner must present a prima facie case with competent evidence to demonstrate that he is entitled to a provisional discharge. Minn. Stat. § 253D.28, subd. 2(d). If the committed person presents a prima facie case that he is entitled to relief, "the party opposing discharge or provisional discharge bears the burden of proof by clear and convincing evidence that the discharge or provisional discharge should be denied." Minn. Stat. § 253D.28, subd. 2(d).

43. To be eligible for provisional discharge, the committed person must be "capable of making an acceptable adjustment to open society." Minn. Stat. § 253D.30, subd. 1(a).

44. The Panel must consider the following factors when evaluating a request for a provisional discharge: "(1) whether the committed person's course of treatment and present mental status indicate there is no longer a need for treatment and supervision in the committed person's current treatment setting; and (2) whether the conditions of the provisional discharge plan will provide a reasonable degree of protection to the public and will enable the committed person to adjust successfully to the community." Minn. Stat. § 253D.30, subd. 1(b).

45. Petitioner has made significant advances in numerous areas of his treatment needs, according to all the records and testimony before this Panel. He has progressed to the final phase of treatment. According to Dr. Scharf and Dr. Reitman, his present treatment needs and mental status indicate that he no longer requires residential sex offender treatment in his current setting. Dr. Reitman opined that outpatient treatment in the community would likely be more beneficial for Petitioner than his current treatment setting. Likewise, MSOP clinical leadership supports Petitioner's request for a provisional discharge, and stated that

being in the community "would provide opportunities to generalize his gains beyond what is offered in his current setting." (Ex. 19, p. 6.) Also, Petitioner's current treatment setting "is limited in terms of the range of experiences available to help generalize treatment gains and fully integrate into the community." (*Id.*)

46. The Panel finds the opinions of Dr. Reitman and Dr. Scharf to be supported by the recommendation of MSOP clinical leadership and the facts in the record, and, accordingly, finds their opinions to be credible.

47. Although Dr. Kenning's opinion is credible, it is not persuasive. Dr. Kenning correctly points out that Petitioner has remaining treatment needs; however, the evidence establishes that Petitioner requires the opportunities presented by residing in the community to make further progress in his treatment. As explained above, the other expert witnesses testified that Petitioner no longer needs treatment in his current setting and some of his treatment needs can be addressed better in the community. Therefore, this Panel finds that Petitioner no longer needs treatment in his current setting, based on his treatment progress and current treatment needs.

48. Dr. Scharf and Dr. Reitman also opined that Petitioner would not pose a safety risk to the community. Although Dr. Kenning opined that Petitioner presented a high risk of recidivism, Dr. Reitman testified that Petitioner would be adequately supervised by reintegration agents while provisionally discharged and, therefore, "his risk is very low." (Ex. 22, p. 26.)

49. Although this Panel acknowledges that Petitioner continues to have a need for both treatment and supervision, he no longer needs in-patient residential sex offender treatment with the level of supervision in his current setting. Specifically, Petitioner's need for

treatment can be met in an outpatient setting with the level of supervision provided to provisionally discharged clients, based upon the totality of the testimony and evidence presented to this Panel. Therefore, this Panel finds that the supervision provided by MSOP for provisionally discharged clients will meet Petitioner's need for supervision.

50. Both Dr. Scharf and Dr. Reitman concluded that Petitioner has a provisional discharge plan that will provide a reasonable degree of protection to the public. Specifically, they opined that the security measures and supervision by the reintegration agent, which are included in the plan's conditions, will provide the necessary protection to the public. Additionally, both Dr. Scharf and Dr. Reitman opined that Petitioner's provisional discharge plan will aid Petitioner in successfully adjusting to the community, given that his plan provides for his structured reintegration into the community and his treatment needs to be met through an outpatient treatment program.

51. This Panel finds the reports and testimony of Dr. Scharf and Dr. Reitman to be credible and supported by the evidence. This Panel has reviewed Petitioner's provisional discharge plan, which contains several public safety conditions, such as GPS monitoring and supervision by reintegration professionals. (Ex. 111 and 112.) Petitioner will be subject to searches and various testing (e.g., urinalysis, blood, polygraph, etc.) (*Id*.) Likewise, his plan contains conditions to aid in his successful adjustment to the community, such as requiring him to attend an outpatient treatment program, psychiatric aftercare, and support group meetings. (*Id*.) He is also required to seek volunteer or employment opportunities, and "will bear primary financial responsibility for [his] daily needs. (Ex. 112, p. 1.) He will work with a reintegration agent to develop his weekly schedule. (*Id*. at 2.) The Panel finds that Petitioner has a provisional discharge plan that will provide a reasonable degree

of protection to the public and enable Petitioner to successfully adjust to the community, in accordance with Minn. Stat. § 253D.30, subd. 1(b).

52. The Commissioner has failed to prove by clear and convincing evidence that Petitioner's provisional discharge should be denied under the statutory factors provided in Minn. Stat. § 253D.30. In considering the statutory factors, this Panel finds that Petitioner is "capable of making an acceptable adjustment to open society," under Minn. Stat. § 253D.30, subd. 1(a), and the evidence supports Petitioner's request for a provisional discharge. The evidence presented in opposition to Petitioner's request does not rise to the level of "clear and convincing" that he should be denied a provisional discharge. When all of the evidence is weighed, the Panel finds that Petitioner is capable of making an acceptable adjustment to open society because: (1) his treatment and mental status indicate that he no longer needs treatment and supervision in his current treatment setting; and (2) the conditions of his provisional discharge plan will provide a reasonable degree of protection to the public and will enable him to adjust successfully to the community.

CONCLUSIONS OF LAW

1. Petitioner established a prima facie case with competent evidence to demonstrate that he is entitled to a provisional discharge, pursuant to Minn. Stat. § 253D.28, subd. 2(d).
2. The Commissioner has failed to prove by clear and convincing evidence that Petitioner's request for a provisional discharge should be denied, pursuant to Minn. Stat. § 253D.28, subd. 2(d).

Based upon the foregoing and all the files, records, and proceedings herein, the Panel now makes the following:

ORDER

1. Petitioner's petition with respect to his request for a provisional discharge is **GRANTED**.
2. The entry of this order granting Petitioner's petition for a provisional discharge is hereby **STAYED** for 15 days, pursuant to Minn. Stat. §253D.28, subd. 3.

BY THE COURT:

Dated: June 25, 2020

Judith M. Tilsen
Judge of District Court

Herbert P. Lefler
Senior Judge of District Court

Marybeth Dorn
Senior Judge of District Court