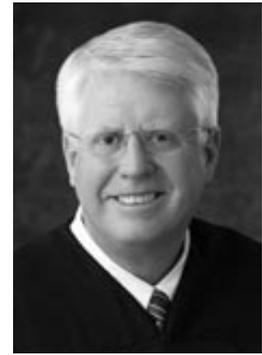


Honorable Robert J. Dale – District Court Judge

Serving Davis, Weber and Morgan counties



Commission Recommendation: **RETAIN**

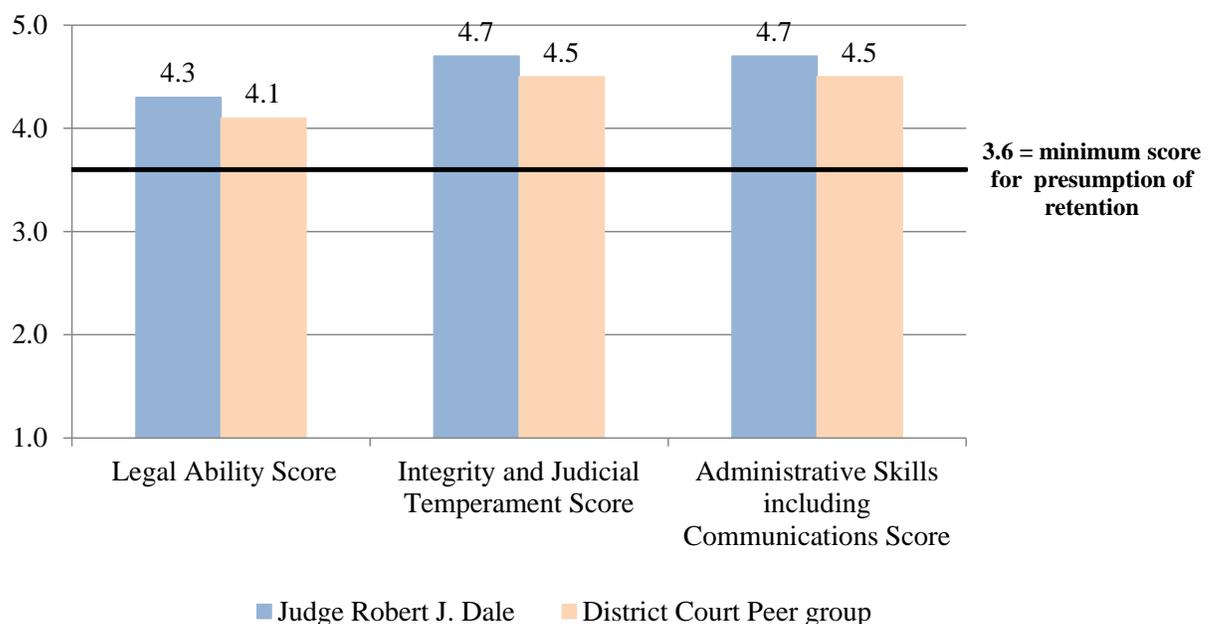
(vote count: 12-0 for retention)

Appointed in 2010, Judge Robert Dale has earned a reputation as a hardworking and fair judge. Attorneys responding to the survey described him as intelligent and well-prepared, noting his excellent work ethic and decisive demeanor. Survey respondents characterized him as conscientious and composed, giving him high marks for his efficiently-run courtroom. Courtroom observers echoed the sentiments of survey respondents, noting Judge Dale's firm but gentle manner and his consideration of all points of view. Observers also emphasized Judge Dale's professionalism and focus, and were impressed with his consistent and respectful tone. Of survey respondents who answered the retention question, 93% recommended that Judge Dale be retained.

The commission reviewed surveys and courtroom observation reports in addition to verifying that Judge Dale has met all time standards, judicial education requirements, and discipline standards established by the judicial branch.

Judge Robert J. Dale was appointed to the Second District Court by Governor Herbert in 2010. Judge Dale earned his Bachelor of Arts degree in 1972 from the University of Utah, graduating Magna Cum Laude and Phi Beta Kappa, and his law degree in 1976, having served on the Law Review and graduating Order of the Coif (top 10%). He litigated in private practice law firms, serving on their boards, for over thirty years. He also served on, among others, the Layton City Planning Commission, the Utah Real Estate Division Committee for drafting state-approved real estate forms, and the Utah Wildlife Federation Board of Directors.

This judge has met all minimum performance standards established by law.



The Honorable Robert J. Dale

Judicial Performance Evaluation Commission Report

Retention 2014

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Robert J. Dale, 53% of qualified survey respondents submitted surveys. Of those who responded, 79 agreed they had worked with Judge Robert J. Dale enough to evaluate his performance. This report reflects the 79 responses. The survey results are divided into five sections:

- Statutory category scores
- Procedural fairness survey score
- Responses to individual survey questions
- Summary of adjectives
- Retention question

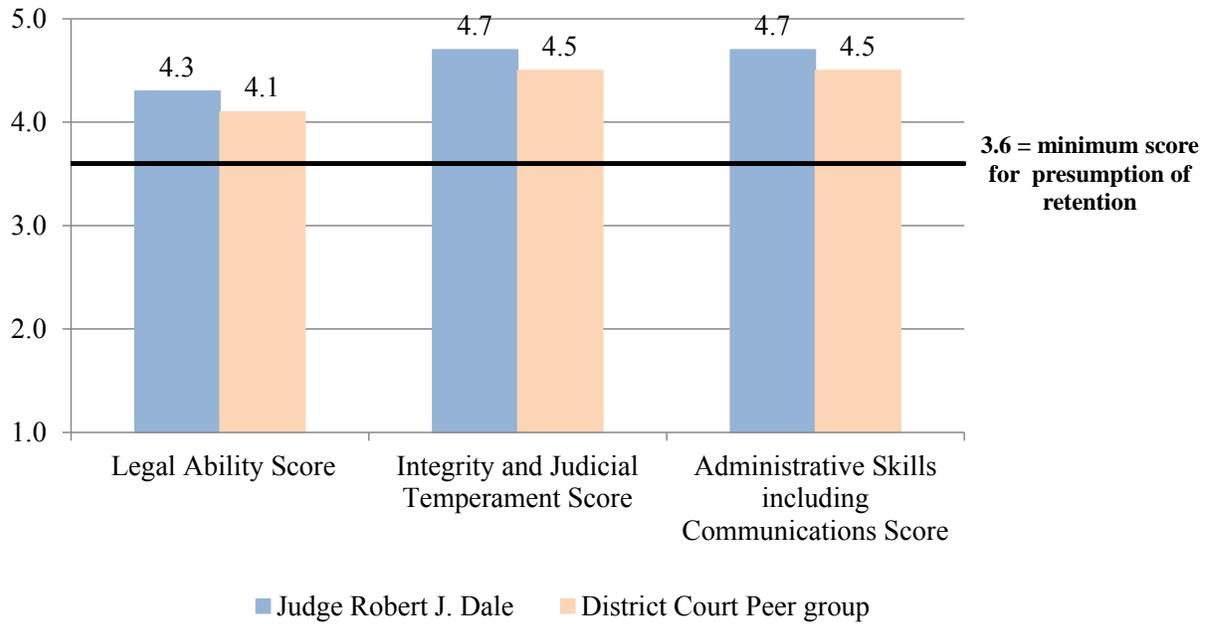
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (inadequate) to 5 (outstanding). Responses from all survey respondent groups contribute to the average score shown for each category, with the exception of Legal Ability. Only attorneys answer these questions.

What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to recommend retention unless it can articulate a substantial reason for overcoming the presumption in favor of retention. Similarly, if a judge fails to get a 3.6 in a category, the commission will vote against retention unless it can articulate a substantial reason for overcoming the presumption against retention.

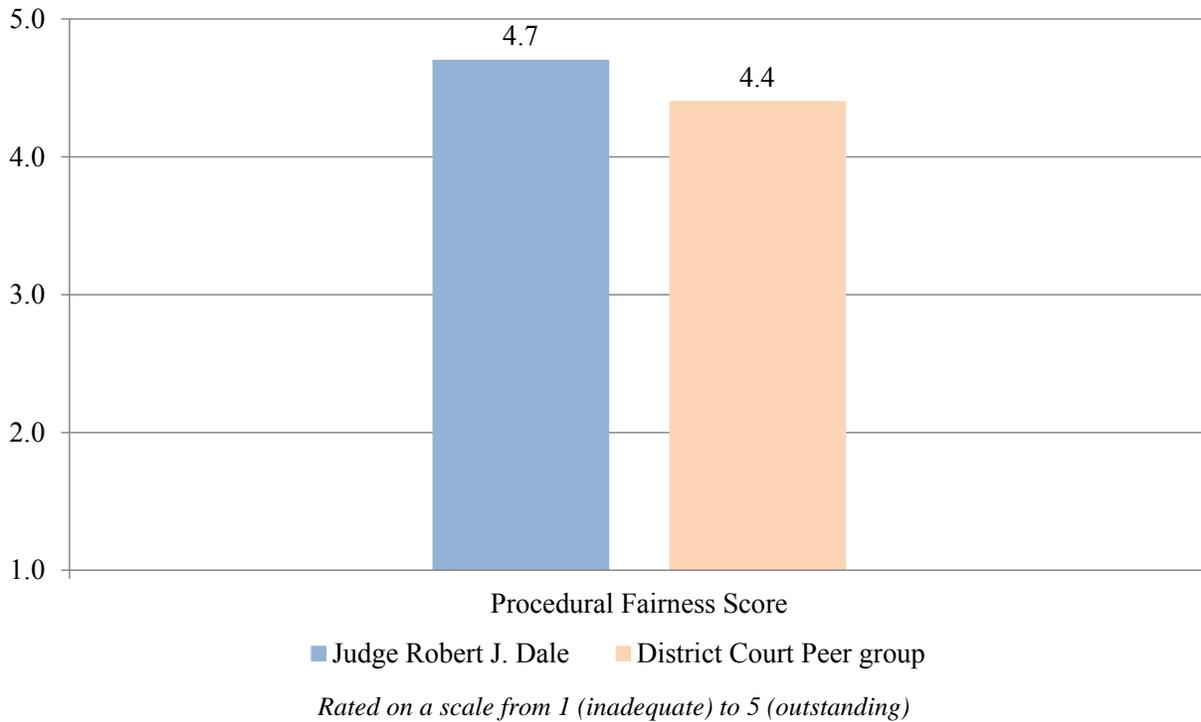
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, and this determination will be made by the commission only during the retention cycle.

B. Statutory Category Scores



Rated on a scale from 1 (inadequate) to 5 (outstanding)

C. Procedural Fairness Survey Score



For procedural fairness, the judge must demonstrate by a preponderance of the evidence that the judge’s conduct in court promotes procedural fairness for court participants. This determination is based on courtroom observations and relevant survey responses.

Overall Procedural Fairness Determination

Category	Judge Robert J. Dale
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Robert J. Dale	District Court
Legal Ability	The judge follows the applicable legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that apply to the case at issue.	4.3	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.3	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.3	4.1
Legal Ability	The judge only considers evidence in the record.	4.3	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.4	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.6	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.7	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.5	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.5	4.3
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.7	4.6

Rated on a scale from 1 (inadequate) to 5 (outstanding)

Category	Question	Judge Robert J. Dale	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.6	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.8	4.5
Administrative Skills	The judge is an effective manager.	4.7	4.3
Administrative Skills	The judge convenes court without undue delay.	4.6	4.5
Administrative Skills	The judge rules in a timely fashion.	4.6	4.4
Administrative Skills	The judge maintains diligent work habits.	4.7	4.5
Administrative Skills	The judge's oral communications are clear.	4.7	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.4	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.8	4.5
Procedural Fairness	The judge is fair and impartial.	4.7	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.6	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.7	4.4

Rated on a scale from 1 (inadequate) to 5 (outstanding)

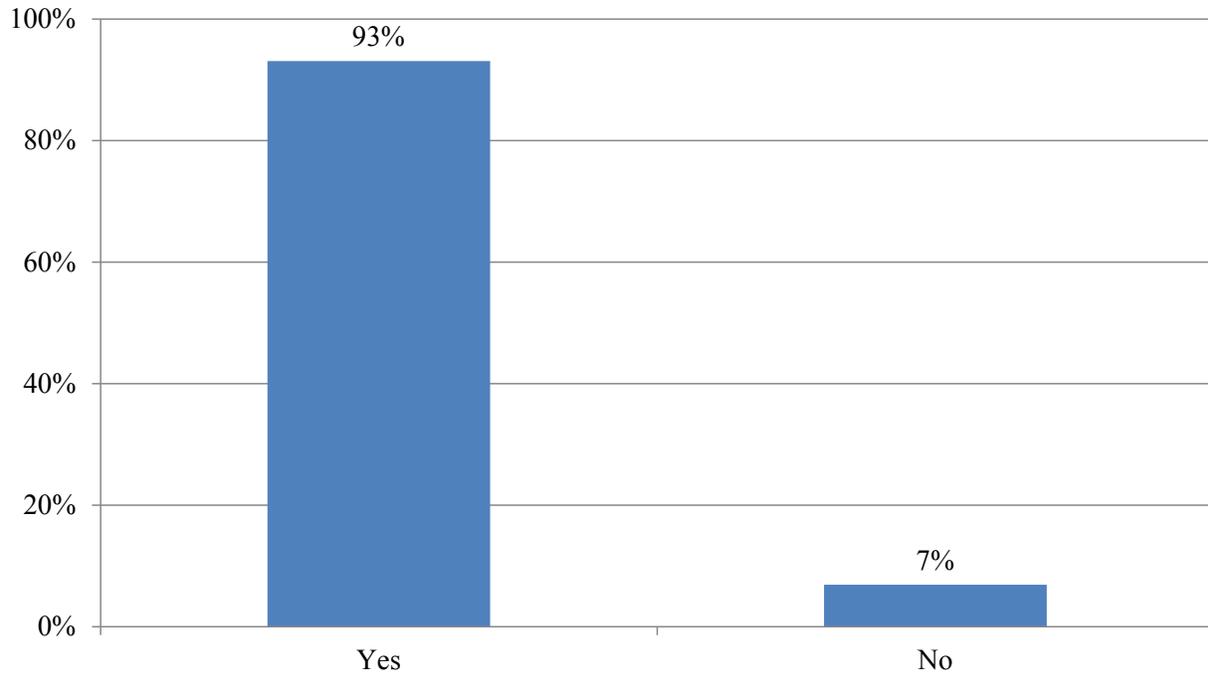
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	37
Calm	38
Confident	13
Considerate	27
Consistent	13
Intelligent	27
Knowledgeable	22
Patient	31
Polite	24
Receptive	13
Arrogant	0
Cantankerous	0
Defensive	0
Dismissive	0
Disrespectful	0
Flippant	0
Impatient	0
Indecisive	3
Rude	0
Total Positive Adjectives	245
Total Negative Adjectives	3
Percent of Positive Adjectives	99%

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

F. Retention Question

Would you recommend that Judge Robert J. Dale be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	2%
Domestic	48%
Criminal	39%
Civil	44%
Other	6%

How many trials or hearings have you had with this judge over the past year?

5 or fewer	56%
6 - 10	19%
11 - 15	11%
16 - 20	6%
More than 20	9%

Survey Background and Methods

This report presents the results from the 2013 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

A. Survey Overview

1. Description of Sample

The following groups are invited to participate in the survey process:

- Attorneys with appearances before the judge
- Court staff who work with the judge
- Juvenile court professionals who work in the judge's courtroom on a regular and continuing basis to provide substantive input to the judge (juvenile court judges only)
- Jurors who participate in jury deliberation (district and justice court judges only)

With the exception of the attorney survey, the survey contractor attempts to survey all court staff and juvenile court professionals who work with judge and all jurors who reach the point of jury deliberation. The lists of court staff and juvenile court professionals are provided by the courts and by the Division of Child and Family Services and Juvenile Justice Services. A list of jurors is created after each trial. All lists are forwarded to the surveyor, Market Decisions, LLC.

For the attorney survey, a representative sample of attorneys is drawn to evaluate each judge based on appearances over a designated two-year period. The sample is weighted to select those with the greatest experience before the judge, assuming that these people will have a better knowledge base about the judge than those with less experience. Attorneys are first stratified into three groups; those with one or more trial appearances, those with 3 or more non-trial appearances, and those with 1-2 non-trial appearances. Attorneys within each sample are then randomized prior to selection. Selection begins with attorneys who have trial experience, then those with a greater number of non-trial appearances (if needed), and finally those with fewer non-trial appearances (if needed).

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, the survey is locked and cannot be accessed again.

The number of questions included in the survey varies, ranging from 9 (jurors) to 24 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

Responses to individual questions are used to calculate averaged scores in three statutory categories: Legal Ability, Integrity & Judicial Temperament, and Administrative Skills. Judges also receive an averaged score in Procedural Fairness.

B. Evaluation Period

The retention evaluation period for judges standing for election in 2014 began on June 1, 2012 and ended on June 30, 2013.

II. Courtroom Observation Report

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE ROBERT DALE

Four observers wrote 76 codable units that were relevant to 16 of the 17 criteria. Three observers reported that the judge was not aware that JPEC observers were present, and one did not know if the judge was aware.

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers were enthusiastically positive about Judge Dale.• All observers variously reported that Judge Dale listened attentively with his full attention, was well prepared, and very efficient. He treated all participants with dignity, going beyond common standards of respectful behavior, and he put all participants at ease. His demeanor was calm, courteous, polite, serious, and professional, and both gentle and firm. He never hurried or showed impatience, and he spoke to all parties equally regardless of their circumstances and in clear terms that they could understand.• All observers particularly emphasized that Judge Dale was never on autopilot, but attended to each person individually, noticing even minor differences in their circumstances and showing concern that each be successful. He went to great lengths to ensure that all participants had full opportunity to comment, provide input, and ask questions. He did not issue any decisions without first asking all parties for recommendations, and then he showed that he had weighed all input received. Judge Dale also clearly and completely explained all aspects of the proceedings and the reasons for his sentences, and he spent a lot of time ensuring that participants fully understood their charges, the requirements of his sentences, and particularly their rights and the consequences of their pleas.• All observers reported that they would feel comfortable appearing before Judge Dale.
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• None
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• None

Summary and *exemplar language* of four observers' comments

RESPECTFUL BEHAVIORS

Listening & focus	Two observers reported that Judge Dale <i>listened attentively</i> , focusing on the speakers and giving them <i>his full attention</i> .
Well-prepared & efficient	Three observers reported that Judge Dale was <i>very prepared, aware of what was going on with each case</i> , and <i>amazingly efficient</i> for such a busy court. He <i>spoke quickly and clearly</i> without <i>hesitations or delays</i> , and so the work of the court was handled <i>smoothly and well</i> .
Respect for others' time	One observer reported that Judge Dale scheduled hearings <i>as soon as possible</i> and <i>apologized</i> if the court schedule would not permit a faster hearing. One observer noted that court <i>started later than expected without any explanation</i> .
Respectful behavior generally	All observers reported that Judge Dale treated everyone <i>politely and with dignity</i> . The judge spoke <i>especially carefully without condescension</i> to a man who had brain damage. He <i>went further than the common practice</i> of addressing persons as Mr. or Ms. by ensuring each name was <i>said correctly</i> , and by <i>specifically asking each person if they wished to speak</i> .

Respectful behavior generally continued	Participants <i>responded</i> to and <i>engaged</i> Judge Dale with as much ease and mutual respect as was possible in this situation. In one case he took <i>all the time needed</i> with a belligerent defendant with persistent questions about the court's procedures. The judge told him he was glad he had questions and respectfully explained how the court operated.
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RESPECTFUL TONE

Courtesy, politeness and patience	Two observers reported that Judge Dale was <i>consistently courteous, open, and accepting</i> . He told one nervous young man, " <i>I just need you to speak out loud, so it's on the record,</i> " while smiling to put him at ease.
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Courtroom tone & atmosphere	All observers reported that Judge Dale was <i>calm, serious and professional</i> . His was <i>gentle and firm, both caring and with a desire to see a change</i> , and <i>did not hesitate to speak frankly about what he expected of participants</i> . One observer at first the judge a little aloof, but then recognized that he showed he <i>had listened and considered every point of view</i> . One observer reported that while the attorneys were <i>occasionally quite loud and seemed to be entertaining themselves at times</i> , the court was <i>fairly orderly</i> .
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Body language	One observer reported that Judge Dale <i>showed he was listening</i> both by <i>eye-contact</i> and by <i>nodding and leaning forward</i> .
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Voice quality	One observer reported that Judge Dale spoke in a <i>calm and amiable tone of voice</i> .
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NEUTRALITY

Consistent and equal treatment	Three observers reported that Judge Dale spoke to all parties <i>equally</i> in the <i>same clear, calm voice</i> and maintained an <i>attitude of politeness and openness</i> toward all defendants, no matter the <i>allegations against them</i> and whether or not they were <i>in custody</i> or <i>remiss in their dress or attitude</i> .
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Acts with concern for individual needs	All observers reported that while most cases were similar, Judge Dale was <i>never on auto pilot</i> . He <i>looked directly</i> at and <i>attended to</i> each person personally, <i>noticing even minor differences</i> . His sentences were often <i>tailored to individual circumstances</i> . In one case he expressed concern that he would <i>not be respecting a victim's suffering if the defendant did not serve a jail term for his confessed actions</i> . Judge Dale showed concern that <i>defendants' needs were weighed along with the demands of the law</i> . While he <i>almost always sentenced according to the City's recommendation</i> , in one case the observer appreciated that the judge said, " <i>Let's pass on this for a while and have more conversation with the City.</i> " He readily agreed to defendants' requests to pay \$50/month for fines rather than the recommendation to pay \$100/month, <i>unless the fine was too large to be paid off during probation</i> . In one case the state argued that a man's revoked driver's license was <i>only an inconvenience and not a hardship</i> , but the judge ruled that <i>as his employer indicated his lack of a license was detrimental to his employment he would reconsider</i> .
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Expresses concern for the individual	Two observers reported that Judge Dale demonstrated his concern that defendants be successful. In one case he went to <i>great lengths to alert a woman</i> who needed to report to jail of possible problems, explaining, " <i>Be sure to show up by 5 p.m. exactly and not be late, or they won't accept you. And be sure not to have any alcohol or drugs in your system, or if there are any prescription drugs in your system be sure to bring the prescription with you.</i> " In another case he agreed in an <i>encouraging way</i> to change a charge from misdemeanor B to C, even though <i>all parties recognized this would make no difference</i> to the defendant's goal of <i>expunging her record</i> .
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Unhurried and careful	Two observers reported that despite a <i>busy calendar</i> , Judge Dale always <i>took enough time</i> and was <i>never hurried or impatient</i> , and he <i>answered every question or concern</i> . He took a long time explaining to a young woman <i>several times over</i> how she should file information about completion, <i>gently explaining that if she didn't her probation would start all over again</i> , " <i>And we don't want that to happen.</i> "
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VOICE

Considered voice	<p>All observers reported that Judge Dale <i>consistently provided opportunities</i> for people to <i>comment or ask questions</i>, saying, “<i>Do you have further questions ... Just let me know your question ... Is there anything you would like to say before sentencing?</i>” Usually he asked <i>at least twice in different ways</i> so that it was clear he was not doing this <i>as a requirement or to go through the motions</i>, but that he <i>really seemed to want to hear</i> from all participants. He allowed family members to speak or ask for reasons for sentences, <i>which sometimes took 10 to 15 minutes each</i>.</p> <p>Judge Dale noted that he <i>understood each person’s requests</i>, and he <i>did not issue any decision without first asking all parties for their recommendations</i>. He appeared to <i>weigh all suggestions and requests</i>, but was also firm, in one case after asking for a defendant’s input, <i>sentencing him to prison rather than drug court</i>, saying “<i>I would love to see you get the help you need, but I don’t think the drug court here will give you what you need.</i>”</p>
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COMMUNICATION

Communicates clearly	<p>One observer reported that Judge Dale spoke in <i>clear terms that all parties could understand</i>.</p>
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Ensures information understood	<p>All observers reported that Judge Dale <i>spent a lot of time</i> ensuring each person understood the proceedings, asking, “<i>Do you understand the recommendation? Do you agree with it?</i>” He sincerely attempted to check the level of understanding and went beyond the usual questions, saying for example, “<i>I do want you to understand how a preliminary hearing works,</i>” or “<i>I just want to make sure you understand what a Class A misdemeanor charge means,</i>” and then <i>providing brief explanations</i>.</p> <p>When reciting his colloquy he <i>looked directly at each defendant and asked for input</i>, and he <i>repeatedly</i> asked if participants <i>understood what they were signing and if they understood the rights they were giving up when entering a guilty or no contest plea</i>. If defendants were <i>unsure of all their rights</i>, Judge Dale <i>instructed them to go over their rights with their attorney and then return to their hearing</i>. He <i>took extra care</i> to ensure that defendants <i>understood what was going on between their attorney and the state’s attorney</i>, and <i>asked several times if they had any questions</i>. He asked if defendants <i>totally understood what was required</i> to accomplish probation requirements. When a translator was needed, the judge <i>deliberately slowed his speech and waited for the translator</i>.</p>
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Provides adequate explanations	<p>Three observers reported that Judge Dale <i>clearly, completely, and carefully explained</i> why <i>requests were denied or modified</i>, the <i>requirements and time frames for probation</i>, the reasons for his sentences and how he wanted them to <i>affect the defendant’s future behavior</i>, and <i>what was expected from defendants</i>.</p>
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