

Narrative Overview

Honorable Derek P. Pullan – District Court Judge

Serving Juab, Millard, Utah and Wasatch counties



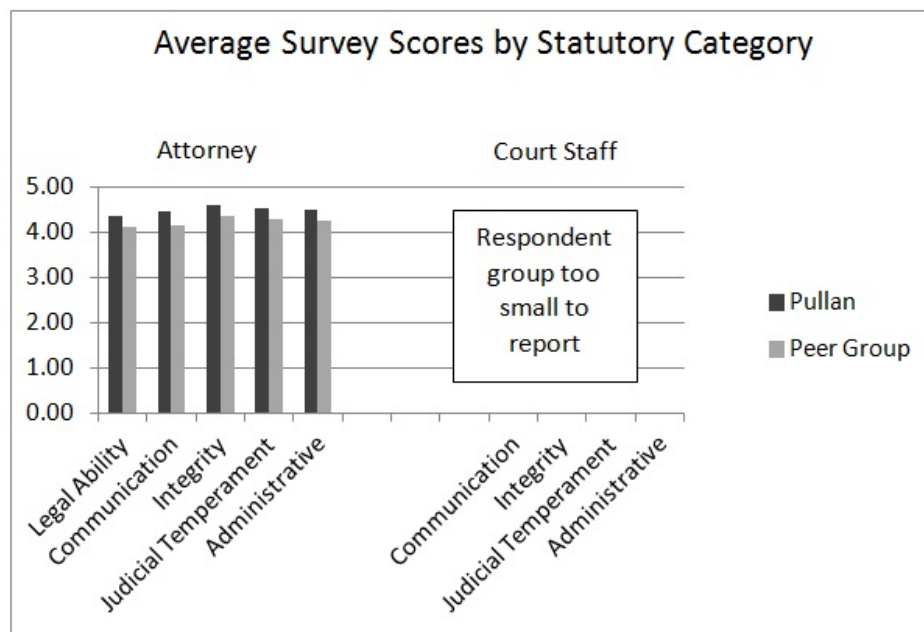
The commission recommends by a vote of 12 - 0
TO RETAIN Judge Derek Pullan

Judge Derek Pullan is an experienced judge who received outstanding scores in all survey categories and questions. Attorneys most often selected intelligent, knowledgeable, attentive, and considerate as words to describe him. Many commented on his model demeanor and consistent preparation, with a notable number using superlatives to describe his judicial conduct. Of the 93 attorneys who responded to the retention question, 88 (95%) recommended that Judge Pullan be retained. Courtroom observers were also positive about Judge Pullan, agreeing that he showed respect and concern for all and ran an orderly, professional courtroom that gave participants time to express themselves fully and that he never seemed hurried. All observers reported they would feel comfortable appearing before Judge Pullan. All juror results were positive.

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

Judge Derek P. Pullan was appointed to the Fourth District Court in September 2003 by Gov. Michael O. Leavitt. After graduating cum laude from Brigham Young University's J. Reuben Clark Law School in 1993, he served as a law clerk at the Utah Supreme Court. He was a deputy county attorney, and later became the Wasatch county attorney, where he prosecuted felony offenses and was legal counsel to the county government. Judge Pullan was elected presiding judge in the Fourth District for two terms. He is an adjunct professor at the J. Reuben Clark Law School where he teaches evidence and a member of the Utah Supreme Court's Advisory Committee on the Civil Rules of Procedure.

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



Survey Overview

Attorneys, court staff and jurors were surveyed about the judge's performance. Survey categories included questions about the judge's legal ability, judicial temperament, integrity, communication skills, and administrative skills. Summarized results for all applicable respondent groups appear below. A judge must score a 3.0 on 80% of the individual questions to pass the minimum performance standard.

A. Attorney Survey Overview:

Total Respondents: 96

1. "Should this judge be retained?"

Response*	Number	Percent of Total
YES	88	95%
NO	5	5%

*3 Respondent(s) did not answer the retention question

2. Statutory Category Scores:

Attorney	Pullan	Peer Avg.	% of Peer
Legal Ability	4.35	4.11	106%
Communication	4.46	4.13	108%
Integrity	4.60	4.35	106%
Judicial Temperament	4.51	4.27	106%
Administrative	4.50	4.24	106%

3. Average trials before this judge: 1.53

4. Area of primary practice:

Collections: 4 Domestic: 21 Criminal: 20 Civil: 69 Other: 5

B. Court Staff Survey Overview: Respondent group too small to report

C. Juror Survey Overview:

Total Respondents: 9

1. Jurors were not asked whether the judge should be retained

2. Statutory Category Scores:

Juror	Pullan	Peer Avg	% of Peer
Communication	4.93	4.77	103%
Integrity	5.00	4.87	103%
Judicial Temperament	5.00	4.84	103%
Administrative	4.93	4.73	104%

Survey Scores

Attorney Survey Scores:

Below are listed: 1) the attorney survey questions; 2) a checkmark to show that the judge met or exceeded the statutory “pass” of 3.0, or an “x” to indicate the judge scored below 3.0 on that question; 3) the judge’s average score on each question; 4) the average score on each question of all judges on the same level of court; and 5) the judge’s average score as a percent of the peer group average score.

A judge must receive an average score of at least 3.0 on 80% of the questions to meet minimum performance standards.

Attorney Question	Statutory Pass: 3.0	Pullan	Peer Avg.	% of Peer Avg.
The Judge makes sound rulings.	✓	4.33	4.01	108%
The judge properly applies the rules of civil procedure.	✓	4.46	4.14	108%
The judge properly applies the rules of criminal procedure.	✓	4.35	4.14	105%
The judge properly applies the rules of evidence.	✓	4.44	4.12	108%
The judge's sentencing fits the offenses.	✓	3.86	4.01	96%
The judge makes appropriate findings of facts.	✓	4.35	4.07	107%
The judge appropriately applies the laws to the facts.	✓	4.36	4.06	107%
The judge follows legal precedent.	✓	4.37	4.12	106%
The judge only considers evidence in the record.	✓	4.36	4.08	107%
The judge's written decisions are clear and logical.	✓	4.40	4.09	108%
The judge's written opinions offer meaningful legal analysis.	✓	4.36	4.06	107%
The judge was fair and impartial.	✓	4.45	4.21	105%
The judge avoids impropriety and the appearance of impropriety.	✓	4.66	4.41	106%
The judge avoids improper ex parte communications.	✓	4.77	4.49	106%
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	4.59	4.36	105%
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.52	4.26	106%
The judge holds attorneys accountable for inappropriate conduct.	✓	4.08	3.97	103%
The judge's oral communication while in court is clear and logical.	✓	4.61	4.26	108%
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.58	4.29	107%
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.40	4.15	106%
The judge is prepared for argument and hearings.	✓	4.68	4.29	109%
The judge treats all attorneys with equal courtesy and respect.	✓	4.55	4.39	104%
The judge rules in a timely manner.	✓	4.63	4.24	109%
The judge realistically manages his or her calendar.	✓	4.45	4.20	106%
The judge convened court without undue delay.	✓	4.41	4.28	103%
The judge provides the parties due process; namely, advance notice of issues to be heard an adequate opportunity to prepare and a meaningful opportunity to be heard.	✓	4.57	4.32	106%
The judge acts to ensure that linguistic/cultural differences or disabilities do not unfairly limit access to the justice system.	✓	4.66	4.48	104%

Juror Survey Scores:

Below are listed: 1) the juror survey questions; 2) a checkmark to show that the judge met or exceeded the statutory “pass” of 3.0, or an “x” to indicate the judge scored below 3.0 on that question; 3) the judge’s average score on each question; 4) the average score on each question of all judges on the same level of court; and 5) the judge’s average score as a percent of the peer group average score.

A judge must receive an average score of at least 3.0 on 80% of the questions to meet minimum performance standards.

Juror Question	Statutory Pass: 3.0	Pullan	Peer Avg	% of Peer
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	5.00	4.85	103%
The judge is prepared for argument and hearings.	✓	5.00	4.80	104%
The judge convened court without undue delay.	✓	4.86	4.65	104%
The judge did not allow his or her personal beliefs to inappropriately influence the proceedings.	✓	5.00	4.89	102%
The judge made sure that everyone's behavior in the courtroom was proper.	✓	5.00	4.82	104%
The judge paid attention to the proceedings in the courtroom.	✓	5.00	4.82	104%
When the judge explained to the jury the reasons for his or her decision, I understood.	✓	4.56	4.64	98%
Based on the judge's explanations, I clearly understood my role and responsibility as a juror.	✓	5.00	4.88	102%
The jury instructions from the judge were clear and understandable.	✓	5.00	4.85	103%
Based on the judge's explanations, I understood the evidence I could or could not consider.	✓	5.00	4.68	107%
The judge demonstrated courtesy toward the attorneys, court staff, litigants and others in the court room.	✓	5.00	4.87	103%
The judge made me feel that the court system is fair.	✓	5.00	4.76	105%
The judge took the case seriously.	✓	5.00	4.82	104%
The judge treated the jury with respect.	✓	5.00	4.93	102%
The judge provided recesses (breaks) in the trial that were adequate	✓	5.00	4.81	104%
My experience with the judge helped me understand the role of the jury in the legal system.	✓	5.00	4.79	104%

Adjective Summary

Survey respondents were asked to select adjectives that best described the judge. Results are shown from each respondent group. The adjectives highlighted in green are “positive” adjectives, while those in red are “negative.”

D. Pullan			
Attorney		Juror	
Attentive	54	Attentive	3
Calm	51	Calm	5
Confident	22	Confident	3
Considerate	53	Considerate	4
Consistent	38	Consistent	5
Intelligent	70	Intelligent	4
Knowledgeable	63	Knowledgeable	8
Patient	39	Patient	6
Polite	50	Polite	5
Receptive	31	Receptive	5
Arrogant	4	Arrogant	0
Cantankerous	0	Cantankerous	0
Defensive	1	Defensive	0
Dismissive	3	Dismissive	0
Disrespectful	2	Disrespectful	0
Flippant	0	Flippant	0
Impatient	0	Impatient	0
Indecisive	0	Indecisive	0
Rude	0	Rude	0

Positive	471	Positive	48
Negative	10	Negative	0
Positive	98%	Positive	100%

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE DEREK PULLAN

Five observers wrote 118 codable units that were relevant to 15 of the 17 criteria. One observer reported that the judge was aware that JPEC observers were present and two reported that the judge was not aware (two did not comment).

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> • Observers offered contrasting impressions of Judge Pullan, including positive evaluations of the substance of Judge Pullan’s procedural justice behaviors with some negative evaluation of their appearance. Observers’ critical comments reflected some uncertainty as to the validity of their criticisms, which were often countered with descriptions of offsetting positive behaviors. The consensus of all reports taken together is that Judge Pullan’s behaviors do reflect the principles of procedural justice. • Four observers reported that Judge Pullen spoke respectfully, apologized for errors, and ran an orderly and professional courtroom. However observers were ambivalent regarding Judge Pullan’s very serious and introverted demeanor and his extreme lack of eye contact, uncertain if this would be perceived as consistent and impartial or uninvolved and aloof. • All observers reported that Judge Pullan showed great concern for the best interests of all parties, gave every participant the opportunity to speak, asking many questions to invite input, and demonstrated he understood and took into consideration all information provided. • Three observers reported that Judge Pullen was never hurried and deliberated at length on every case. He was very aware of participants’ time, both in scheduling appearances and ensuring parties always had sufficient time for preparation. • All observers reported that they would feel comfortable appearing before Judge Pullan.
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> • None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> • One observer was alone in reporting that Judge Pullan always came late to court without apology and recessed frequently without informing participants when to return. • One observer was alone in reporting that Judge Pullan directed questions primarily to attorneys and only rarely to defendants directly.

<i>Numerical ratings:</i>	<i>Observer 1</i>	<i>Observer 2</i>	<i>Observer 3</i>	<i>Observer 4</i>	<i>Observer 5</i>
Neutrality	4	5	4	3	4
Respect	4	5	5	3	4
Ability to earn trust	5	5	5	3	5
Skill at providing voice	3	5	5	3	4

Summary and *exemplar language* of five observers’ comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	One observer reported that Judge Pullan listened carefully and attentively, but another thought that while he did hear the perspective of the parties his verbal and non-verbal communication did not indicate this.
Well-prepared & efficient	Four observers reported that Judge Pullan was well prepared and informed on all cases and was well organized. One observer mentioned that the presentation of one sentencing was extremely polished, professional and smooth as if it had been prepared beforehand.

Respect for others' time	<p>Three observers reported that Judge Pullan was very aware of people's time, scheduling hearings as promptly as possible at the convenience of all parties. He was concerned that everyone had all the time they needed for preparation but was also concerned that proceedings not drag out.</p> <p>However one observer commented that Judge Pullan always came late to court without apology, and frequently recessed without informing participants when to return.</p>
Respectful behavior generally	<p>Four observers reported that Judge Pullan always spoke in a respectful manner, asking a defendant with a Hispanic name if his pronunciation was correct, and explaining to a couple to whom he referred by their first and last names "I mean no disrespect, it just helps me." He apologized whenever he misunderstood a participant, and in one case in which the court had erred <i>went the extra mile and had someone walk him to the Clerk's Office</i> to get a copy of a court order.</p>
<i>RESPECTFUL TONE</i>	
Courtesy, politeness and patience	<p>Two observers reported that Judge Pullan called all cases by defendant's name and that he always used common courtesies such as "Please", "Thank you" and "I appreciate your argument".</p>
Courtroom tone & atmosphere	<p>All observers described Judge Pullan's demeanor as <i>formal, serious, confident, composed, and polite yet firm</i>. They also described Judge Pullan as <i>calm, quiet, very soft spoken, never raising his voice or behaving as a take-charge person</i>. Observers were ambivalent in characterizing this serious and quiet demeanor, on one hand mentioning <i>consistency and impartiality</i>, and on the other an <i>expressionless lack of emotion</i> that came across as <i>aloof</i>, and exacerbated by an extreme <i>lack of eye contact</i> (see Body language). The consensus was that despite concerns about Judge Pullan's demeanor he would be <i>perceived as fair</i> and would <i>do right by people in his court</i>. One observer was impressed with the <i>respectful relationship between the judge and the sole public defender</i>, in contrast with large courts observed, and another reported an unsolicited comment from a victim's advocate who described Judge Pullan as <i>wonderful to work with</i>.</p> <p>One observer reflected that <i>most judges are verbal and extroverted</i> and perhaps might <i>engage others without really listening</i>, and so these traits <i>do not guarantee procedural justice</i>, whereas an <i>introverted judge</i> may appear aloof without in fact being so.</p> <p>All observers reported the courtroom atmosphere as <i>orderly, serious, professional and quiet</i>, with <i>rules posted outside the courtroom door</i>, with participants <i>respecting the gravity</i> of the court and standing on the judge's arrival. However one observer noted that when the judge was not in the courtroom <i>other personnel were inappropriately loud and frivolous</i>.</p> <p>One observer reflected that the courtroom atmosphere was <i>not warm</i>, and that other judges combine firmness with warm and caring behaviors which <i>perhaps provides parties more comfort and ability to listen and comprehend, with no adverse effects on courtroom proceedings</i>.</p>
Body language	<p>Two observers reported extensively on Judge Pullan's deficient body language, for example an absence of nodding or smiling, and in particular a lack of eye contact in which he was not looking at anyone <i>90% of the time</i> other than an <i>occasional glance up</i>, but <i>sadly these were only glances</i>. Sometimes speakers would <i>pause or stammer, seemingly unsure the judge was listening</i>. While Judge Pullan usually <i>looked down at his desk</i> it later <i>became clear he had been listening</i>, but both observers were concerned how a defendant would <i>interpret the lack of eye contact</i>, and might <i>not know if he really knew my case or was reading my case file while I presented before him</i>.</p> <p>One observer was alone in saying that Judge Pullan had <i>great eye contact</i>.</p>
<i>NEUTRALITY</i>	
Consistent and equal treatment	<p>Two observers reported that Judge Pullan was <i>consistent in his standards</i> and was concerned with the interests of both plaintiff and victim. In one case when a victim's name was mentioned he <i>immediately withdrew</i> as he had known the victim and her family for several years, and he made it clear to the defendant that this <i>assured that a judge would hear the case without any bias</i>.</p>

Acts with concern for individual needs	Three observers reported that Judge Pullan <i>paid attention</i> to how <i>peoples' lives were impacted</i> by his decisions, for example adjusting <i>community service time from 45 to 60 days to make it possible for a participant to succeed</i> , adjusting a hearing date on hearing a defendant's work schedule, greatly reducing the time to a hearing to <i>limit a defendant's time in jail</i> , and setting an <i>earlier hearing date for a jailed defendant who could not make bail</i> .
Expresses concern for the individual	Four observers reported numerous examples of Judge Pullen's concern for each individual's circumstances, for example telling defendants they would be <i>better off if their charges were handled by one court rather than two and told attorneys to try to make this happen</i> . One observer admirably reported at length an inspiring speech to a first offender that displayed wisdom and deep concern for the young man, including a request to him to consider who had cared and supported and <i>appeared for him in court</i> (asking the family to stand) rather than <i>any gang members</i> . The boy's <i>father gulped for air when the judge was finished speaking</i> .
Unhurried and careful	Three observers reported that Judge Pullen was <i>never in a hurry</i> and spent <i>a great deal of time on each case</i> . He read material provided to him for <i>what seemed quite a long time</i> and was <i>focused and deliberate in considering his decisions</i> . One observer reported overhearing comments in the audience "Wow he's studying that very carefully ... he's thorough". Judge Pullan was concerned that everyone in court had all the time they needed.

VOICE

Considered voice	All observers reported in that Judge Pullan always gave an opportunity for <i>everyone to say... anything about the charges and case in general...if they chose to</i> , and <i>always asked for additional input</i> with questions such as "Is there anything else you want me to know?" or "Do you agree?" He always made clear he understood and considered additional information provided, and took concerns voiced into account, for example after listening to answers to his questions he <i>explained his decisions based on what he had heard from them as well as the other information provided</i> . One observer was alone in reporting that Judge Pullan primarily <i>directed his questions to attorneys, rarely inviting comment from defendants except in sentencing</i> . However this observer felt that because Judge Pullan seemed <i>very prepared, procedural justice did not suffer from his low use of input from defendants</i> .
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COMMUNICATION

Communicates clearly	Four observers reported that Judge Pullan spoke <i>clearly and carefully</i> using <i>straightforward language</i> .
Ensures information understood	Three observers reported that Judge Pullan asked participants <i>if they understood charges</i> and if they had <i>read the complaint against them</i> , went to <i>great lengths</i> to ensure defendants' understanding, for example asking "Do you understand...those are your rights" or "Do you understand the terms of your probation?" In one case the judge realized an unrepresented woman did not understand his legal language, and he asked a <i>volunteer attorney "to walk these papers"</i> .
Provides adequate explanations	Four observers reported that Judge Pullan carefully explained his rulings, for example the meaning of a no-contact order, and often provided the reasons for his decisions. He was <i>very clear about the penalties for alleged crimes</i> , was <i>careful to read the rights to each defendant who wished to plead guilty</i> , and <i>very specifically</i> told participants <i>where to go and what to do next</i> , for example <i>how to get a copy of expunged orders by requesting assistance from the Bailiff</i> . In the above mentioned case of the unrepresented woman the observer felt the judge <i>seemed less than clear</i> when the judge said "The petitioner has complied with the orders of the court" and after dismissing the woman she said "Does that mean I'm divorced?"
