

Honorable James L. Shumate – District Court Judge

Serving Beaver, Iron and Washington counties



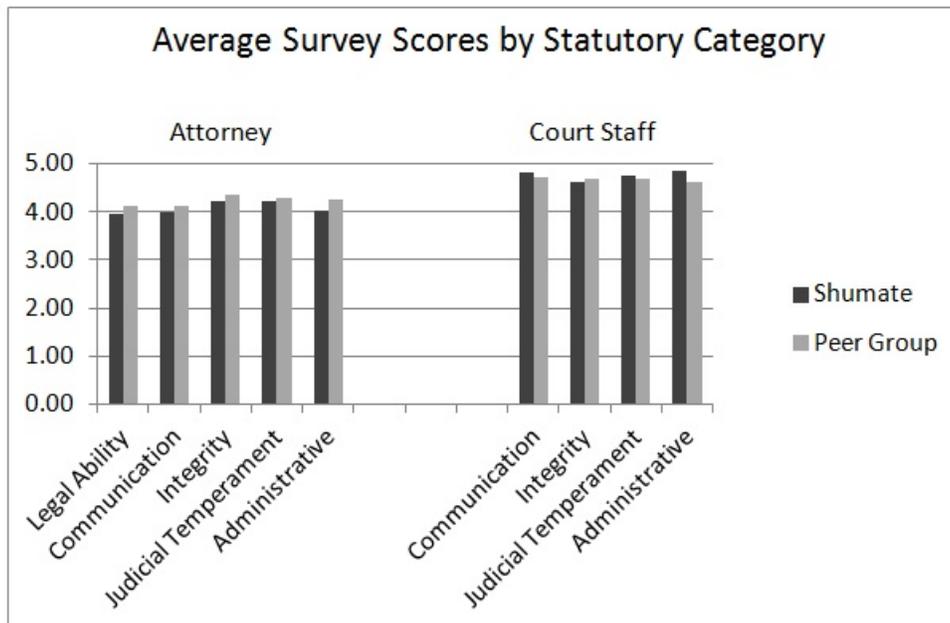
The commission recommends by a vote of 12 - 0
TO RETAIN Judge James Shumate

Judge James Shumate is an experienced judge who received mostly positive survey results. Attorneys and court staff described him as intelligent, polite and attentive. Attorneys scored Judge Shumate slightly below the average of other district judges while court staff scored him slightly above the average. Of the 104 attorneys who responded to the retention question, 96 (92%) recommended that Judge Shumate be retained. Of the court staff who responded to the retention question, 13 of 14 (93%) recommended retention. Ten jurors responded to the survey and their responses were all positive. Six courtroom observers noted that Judge Shumate was sincere, insightful, and showed individualized concern for parties and defendants. Observers' comments were, with few exceptions, overwhelmingly positive.

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

Judge James L. Shumate was appointed in January of 1991 by Governor Norman Bangertter. Judge Shumate graduated from the University of Utah College of Law in 1975, and practiced law in Southern Utah for over fifteen years before his appointment. He served as the Iron County Attorney for four years and was a Bar examiner for ten years. He has presided over the Washington County Drug Court since 2000. Judge Shumate has served on the Governor's Substance Abuse and Anti-Violence Coordinating Council and on the Committee on Resources for Self-Represented Parties. Judge Shumate presently serves as the Presiding Judge of the Fifth District Court.

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: 108

1. "Should this judge be retained?"

Response	Number	Percent of Total
YES	96	92%
NO	8	8%

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

2. Statutory Category Scores:

Attorney	Shumate	Peer Avg	% of Peer
Legal Ability	3.95	4.11	96%
Communication	3.98	4.13	96%
Integrity	4.23	4.35	97%
Judicial Temperament	4.21	4.27	99%
Administrative	4.02	4.24	95%

3. Average trials before this judge: 2.66

4. Area of primary practice:

Collections: 5 Domestic: 35 Criminal: 30 Civil: 70 Other: 5

B. Court Staff Survey Overview:

Total Respondents: 15

1. "Should this judge be retained?"

Response	Number	Percent of Total
YES	13	93%
NO	1	7%

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

2. Statutory Category Scores:

Court Staff	Shumate	Peer Avg.	% to Peer
Communication	4.83	4.71	102%
Integrity	4.61	4.69	98%
Judicial Temperament	4.76	4.68	102%
Administrative	4.84	4.62	105%

C. Juror Data Summary:

Total Respondents: 16

1. Jurors were not asked whether the judge should be retained
2. Statutory Category Scores:

Juror	Shumate	Peer Avg	% of Peer
Communication	4.91	4.77	103%
Integrity	4.97	4.87	102%
Judicial Temperament	4.92	4.84	102%
Administrative	4.90	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	Shumate	Peer Avg	% of Peer Avg.
The Judge makes sound rulings.	✓	3.84	4.01	96%
The judge properly applies the rules of civil procedure.	✓	3.87	4.14	93%
The judge properly applies the rules of criminal procedure.	✓	4.20	4.14	102%
The judge properly applies the rules of evidence.	✓	3.98	4.12	97%
The judge's sentencing fits the offenses.	✓	4.20	4.01	105%
The judge makes appropriate findings of facts.	✓	3.93	4.07	96%
The judge appropriately applies the laws to the facts.	✓	3.83	4.06	95%
The judge follows legal precedent.	✓	3.87	4.12	94%
The judge only considers evidence in the record.	✓	3.78	4.08	93%
The judge's written decisions are clear and logical.	✓	3.96	4.09	97%
The judge's written opinions offer meaningful legal analysis.	✓	3.82	4.06	94%
The judge was fair and impartial.	✓	4.10	4.21	97%
The judge avoids impropriety and the appearance of impropriety.	✓	4.23	4.41	96%
The judge avoids improper ex parte communications.	✓	4.42	4.49	98%
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	4.32	4.36	99%
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.07	4.26	96%
The judge holds attorneys accountable for inappropriate conduct.	✓	3.96	3.97	100%
The judge's oral communication while in court is clear and logical.	✓	4.15	4.26	98%
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.25	4.29	99%
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.06	4.15	98%
The judge is prepared for argument and hearings.	✓	4.08	4.29	95%
The judge treats all attorneys with equal courtesy and respect.	✓	4.35	4.39	99%
The judge rules in a timely manner.	✓	4.00	4.24	94%
The judge realistically manages his or her calendar.	✓	3.90	4.20	93%
The judge convened court without undue delay.	✓	4.15	4.28	97%
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.	✓	4.00	4.32	92%
The judge acts to ensure that linguistic/cultural differences or disabilities do not unfairly limit access to the justice system.	✓	4.58	4.48	102%

Court Staff Survey Scores:

Below are listed: 1) the court staff 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.

Court Staff Question	Statutory Pass: 3.0	Shumate	Peer Avg.	% of Peer Avg.
The judge was fair and impartial.	✓	4.69	4.70	100%
The judge avoids impropriety and the appearance of impropriety.	✓	4.80	4.77	101%
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	4.62	4.71	98%
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.55	4.66	98%
The judge's oral communication while in court is clear and logical.	✓	4.77	4.71	101%
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.86	4.72	103%
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.77	4.54	105%
The judge is prepared for argument and hearings.	✓	4.83	4.75	102%
The judge treats all attorneys with equal courtesy and respect.	✓	4.70	4.72	100%
The judge rules in a timely manner.	✓	4.81	4.69	103%
The judge realistically manages his or her calendar.	✓	4.71	4.53	104%
The judge convened court without undue delay.	✓	4.81	4.62	104%
The judge is willing to make difficult or unpopular decisions.	✓	4.59	4.58	100%
The judge did not allow his or her personal beliefs to inappropriately influence the proceedings.	✓	4.45	4.70	95%
The judge explains the reasons for his or her decisions, when appropriate.	✓	4.83	4.72	102%
The judge works with pro se litigants fairly and effectively.	✓	4.88	4.72	103%
The judge’s personal life does not impair his or her judicial performance.	✓	4.75	4.73	100%
The judge maintains diligent work habits.	✓	4.92	4.59	107%
The judge’s interactions with court staff are professional and constructive.	✓	4.90	4.71	104%
The judge is an effective manager of his or her staff, operations and business.	✓	4.89	4.51	108%
The judge appropriately enforces deadlines and court orders.	✓	4.59	4.63	99%
The judge is appropriately accessible to court personnel.	✓	4.96	4.75	105%
The judge made sure that everyone's behavior in the courtroom was proper.	✓	4.80	4.69	102%
The judge reasonably accommodates changing technology.	✓	4.95	4.57	108%
The judge paid attention to the proceedings in the courtroom.	✓	4.83	4.79	101%

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	Shumate	Peer Avg.	% of Peer Avg.
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.	✓	4.88	4.80	102%
The judge convened court without undue delay.	✓	4.88	4.65	105%
The judge did not allow his or her personal beliefs to inappropriately influence the proceedings.	✓	4.94	4.89	101%
The judge made sure that everyone's behavior in the courtroom was proper.	✓	4.88	4.82	101%
The judge paid attention to the proceedings in the courtroom.	✓	4.94	4.82	102%
When the judge explained to the jury the reasons for his or her decision, I understood.	✓	4.79	4.64	103%
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.	✓	4.75	4.68	101%
The judge demonstrated courtesy toward the attorneys, court staff, litigants and others in the court room.	✓	4.94	4.87	101%
The judge made me feel that the court system is fair.	✓	5.00	4.76	105%
The judge took the case seriously.	✓	4.88	4.82	101%
The judge treated the jury with respect.	✓	5.00	4.93	102%
The judge provided recesses (breaks) in the trial that were adequate	✓	4.93	4.81	103%
My experience with the judge helped me understand the role of the jury in the legal system.	✓	4.94	4.79	103%

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.”

J. Shumate					
Attorney		Court Staff		Juror	
Attentive	54	Attentive	7	Attentive	8
Calm	47	Calm	9	Calm	8
Confident	46	Confident	9	Confident	7
Considerate	56	Considerate	10	Considerate	12
Consistent	24	Consistent	5	Consistent	7
Intelligent	57	Intelligent	12	Intelligent	12
Knowledgeable	56	Knowledgeable	13	Knowledgeable	12
Patient	43	Patient	8	Patient	11
Polite	55	Polite	5	Polite	6
Receptive	34	Receptive	5	Receptive	6
Arrogant	5	Arrogant	0	Arrogant	0
Cantankerous	1	Cantankerous	0	Cantankerous	0
Defensive	1	Defensive	0	Defensive	0
Dismissive	5	Dismissive	1	Dismissive	0
Disrespectful	1	Disrespectful	0	Disrespectful	0
Flippant	4	Flippant	0	Flippant	0
Impatient	3	Impatient	0	Impatient	0
Indecisive	2	Indecisive	0	Indecisive	0
Rude	0	Rude	0	Rude	0

Positive	472	Positive	83	Positive	89
Negative	22	Negative	1	Negative	0
Positive	96%	Positive	99%	Positive	100%

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE JAMES SHUMATE

Six observers wrote 166 codable units that were relevant to 16 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 (three did not comment).

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> • Five observers were especially positive about Judge Shumate. One described him as <i>an outstanding judge and human being</i>, another as <i>the most amazing judge I have observed and that all judges should observe [his] courtroom</i>, and another reported <i>there is nothing of a critical nature to say about this judge</i>. • Five observers offered numerous laudatory examples in every criteria, but most particularly in the sincere, insightful, and individualized concern Judge Shumate showed for every defendant, combining consistent application of the law in sentences that best accomplished rehabilitative goals. • Four observers reported that they would feel particularly comfortable appearing before Judge Shumate, but one would not feel comfortable (one did not comment).
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> • None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> • One observer's critical comments in several areas were in marked contrast to the laudatory comments of the other five observers.

Numerical ratings:	Observer 1	Observer 2	Observer 3	Observer 4	Observer 5	Observer 6
Neutrality	5	5	5	4	-	4
Respect	5	5	5	5	-	5
Ability to earn trust	5	5	5	5	-	4
Skill at providing voice	5	5	5	5	-	4

Summary and *exemplar language* of six observers' comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	Four observers reported that Judge Shumate <i>listened carefully</i> , was <i>alert, attentive, interested</i> , and <i>fully engaged</i> himself as if this was <i>his most important case of the day</i> .
Well-prepared & efficient	Five observers reported that Judge Shumate was <i>always prepared</i> and <i>familiar with charges so could watch responses carefully without reading case files</i> . He was <i>organized with a clear plan for the day</i> , and <i>run an efficient court with an efficient staff who were respectful of each other</i> .
Respect for others' time	Three observers reported that Judge Shumate <i>apologized with a good reason</i> for arriving late, and showed respect for people's time, for example "Sooner, I think, is always better, but if you think it is too soon let me know". He <i>combined cases together</i> to save participants' time.
Respectful behavior generally	Five observers reported that Judge Shumate addressed everyone by name, confirming pronunciation, and recognized willing participation or success in the drug program. One observer was <i>impressed</i> when the judge explained <i>how difficult drug court is</i> and <i>left the bench</i> to stand with two women who described how it changed their lives and <i>thanked the judge profusely for believing in them</i> . He encouraged a young inmate <i>in a fatherly way</i> about the <i>full life and opportunities that await him</i> , and spoke encouragingly to others as a <i>concerned friend</i> or a <i>caring grandparent</i> .

Respectful behavior generally <i>continued</i>	<p>One observer felt he was a <i>LITTLE too respectful of a disgruntled shackled man paying a debt to society</i> when the judge said “I’m not going to make you do something you don’t want to do”.</p> <p>However, in marked contrast, one observer described Judge Shumate’s tone as <i>abrupt and obnoxious</i> when a man said he believed he had paid off his mortgage, and <i>the judge threw up his hands and smirked</i> “I know where my checks are, why don’t you know where your checks are?” The observer felt the judge <i>could have treated him with courtesy, dignity and respect</i>.</p>
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RESPECTFUL TONE

Courtesy, politeness and patience	Four observers reported that Judge Shumate <i>greeted the court</i> with “Good Morning and thank you for being here” and was <i>courteous</i> in all interactions, for example telling the court if he <i>needed to read something before stopping to read it</i> , and <i>listening patiently during an emotional outburst</i> .
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Courtroom tone & atmosphere	<p>All observers reported that Judge Shumate was <i>comfortable in his role</i> as judge and also <i>teacher and counselor</i>. His demeanor was <i>animated, approachable and friendly</i>, but <i>serious, direct, stern, and authoritative</i> when appropriate. He was <i>hard on those who endangered others...yet seeming compassionate and complimented those who turned their lives around</i>. His <i>empathetic approach</i> did not <i>diminish</i> following the law and making the <i>consequences</i> of their behavior <i>eminently clear</i> but rather <i>exuded respect and kindness to violators of society</i>.</p> <p>The courtroom atmosphere was <i>warm and friendly, informal yet not casual</i>, but also <i>respectful, and professional with open conversation encouraging assertive and honest communication</i> and a <i>general feeling of teamwork</i> among all parties. Judge Shumate <i>set the tone</i> at the beginning of a session by <i>asking a person to remove their hat unless it was a medical device</i>.</p> <p>However, in marked contrast, one observer was alone in <i>having a vague feeling</i> that although Judge Shumate <i>smiled and joked and tried to appear fair</i>, he possibly <i>came across as glib, uncaring or snide with a veneer of fairness or performance</i>.</p>
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Body language	Five observers reported that Judge Shumate displayed <i>great overall body language, leaning forward with full attention, smiling and maintaining consistent eye contact</i> . After asking questions he <i>relaxed in his chair watching all participants</i> .
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Voice quality	One observer was alone when reporting in the mortgage case that the judge’s tone of voice seemed <i>exasperated and disgusted</i> . In another case she thought that although the judge <i>did not speak snidely, something about his manner</i> gave her the feeling he was <i>disgusted</i> with a woman.
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NEUTRALITY

Consistent and equal treatment	Four observers reported that Judge Shumate treated all defendants <i>in the same manner</i> and the <i>same verbal and non verbal behaviors</i> , took <i>all available information</i> into consideration before sentencing, and was consistent in rulings, for example in <i>immediately assessing a high-dollar bench warrant for any non-appearing defendant</i> .
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Acts with concern for individual needs	<p>Five observers elaborated at length and with numerous examples on Judge Shumate’s extraordinary insight and highly personalized concern for each defendant, particularly his ability to hand down consistently applied legal penalties that would best accomplish rehabilitative goals, by <i>having conversations with inmates to evaluate their character</i> and by <i>giving individualized sentences based on past behavior and their stated desires, ambitions, and regrets that would commit them to acts of progress and recovery</i>. These observers used unusually unrestrained language in describing the judge’s concerned behavior for each defendant, such as <i>he was incredible and his way of stating things would evince feelings of trust in virtually anyone</i>.</p> <p>However, in marked contrast, one observer was alone in stating she was <i>not convinced he always had the intention to act in the interest of parties</i>, for example when a defendant described the long term problems of having a mistaken prison record the observer <i>couldn’t help feeling that neither the judge nor the attorney would put themselves out much to correct this mistake</i>.</p>
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Expresses concern for the individual	All observers reported at length that Judge Shumate expressed genuine concern about each persons' best interests, and offered numerous examples of his <i>wonderful way of individualizing each case</i> when expressing concern and his ability to elicit sincere and productive responses from defendants who <i>responded quite positively to his apparent interest</i> .
Unhurried and careful	Three observers reported that Judge Shumate treated each defendant <i>as if he were the only case that day</i> and gave each participant <i>all the time needed</i> . One observer felt that while other judges with similar caseloads <i>may have been rushing from case to case...this judge seemed to take the time needed to make the defendants feel they were getting fair and equal treatment</i> . However one observer was alone in stating <i>it appeared the judge was trying to hurry [a] case along without much input or questions, possibly because his ruling was made on shaky ground</i> .

VOICE

Considered voice	All observers reported that Judge Shumate <i>encouraged all to speak, seemed to sincerely want the input and opinions of ALL involved, and spent a lot of time listening and responding to each defendant, saying "I am here to listen", and never jumped into sentencing without actively listening to [all parties] concerns/questions</i> . In one case he went <i>out of his way to make sure a possibly very shy woman had been heard</i> . However, in marked contrast, one observer described in the mortgage case that the judge gave a defendant <i>only brief moments of response before quickly asking other questions</i> .
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Shumate was <i>articulate</i> and displayed the <i>height of clarity of language</i> .
Ensures information understood	Five observers reported that Judge Shumate always ensured participants understood his rulings and related law and the consequences of ignoring rulings, often asking "Do you understand that?" or "Does that make sense to you? I don't want to set you up to fail." When reciting the colloquy <i>he watched the defendants and at times stopped to explain a point in his own words</i> . He answered questions in a <i>genuine, honest and assertive manner until people appeared to be satisfied</i> . However, one observer described in the mortgage case that when the judge ended the case "ruling for the bank" and the defendant asked what that meant and the judge responded "It means you're evicted", the judge <i>should have made sure the man understood the ruling meant eviction</i> .
Provides adequate explanations	Two observers reported that Judge Shumate always explained defendants' rights clearly <i>as though it was the first time he had read people their rights</i> . He was very clear in <i>his expectations</i> , and in explaining his rulings, <i>often in his own words, and in a way that made it very easy for participants to understand the reasons for his decisions</i> . However one observer was alone in reporting that in some cases Judge Shumate was <i>not so clear and transparent</i> when saying "I've reached my decision" or "You win" <i>without much further explanation</i> . In one case this observer reported that <i>a man's attorney looked, to me, a little taken aback and asked the judge how he had reached his decision</i> .
