

Narrative Overview

Honorable Marvin D. Bagley – District Court Judge

Serving Garfield, Kane, Piute, Sanpete, Sevier and Wayne counties



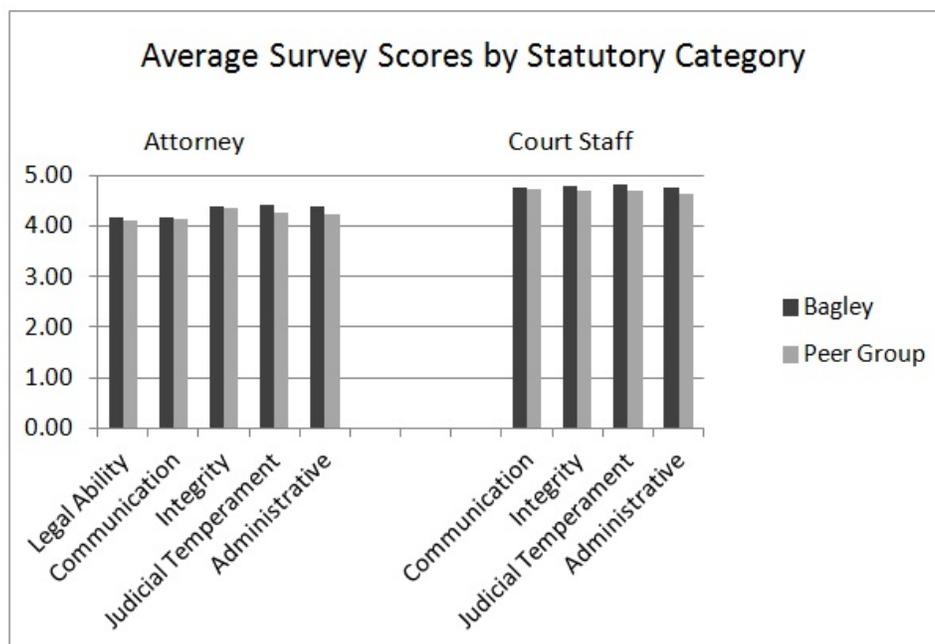
The commission recommends by a vote of 12 – 0
TO RETAIN Judge Marvin Bagley

Though relatively new to the bench, Judge Marvin Bagley has won the respect of those who work with him. Of the 72 attorneys and court staff who responded to the retention question, 70 (97%) recommended that Judge Bagley be retained. He scored highest in areas of judicial temperament and administrative abilities. His strongest attributes are his attentiveness, knowledge, calmness and intelligence. Of the 327 attributes selected by court staff and attorneys to describe Judge Bagley, only 9 (less than 3%) were negative. Judge Bagley scored above the average of his peers in all five survey categories. Courtroom observers also gave him high marks as an excellent communicator, noting that he clearly and thoroughly explains all matters in the court. They likewise rated him highly for allowing others to voice their views and present their requests.

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

Judge Marvin D. Bagley was appointed to the Sixth District Court by Gov. Jon M. Huntsman, Jr., in 2009. Judge Bagley received a law degree from Brigham Young University's J. Reuben Clark School of Law in 1985, after which he clerked for the U.S. District Court of Nevada. From 1986 to 1994, Judge Bagley practiced law as an associate and shareholder with VanCott, Bagley, Cornwall & McCarthy in Salt Lake City. From 1994 until his appointment to the bench, Judge Bagley maintained a private law practice in Richfield, which included service as county attorney for Piute and Wayne counties and as a prosecutor for several cities in the district.

This judge has met the 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: 51

1. "Should this judge be retained?"

Response	Number	Percent of Total
YES	46	96%
NO	2	4%

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

2. Statutory Category Scores:

Attorney	Bagley	Peer Avg.	% of Peer
Legal Ability	4.17	4.11	102%
Communication	4.16	4.13	101%
Integrity	4.38	4.35	101%
Judicial Temperament	4.41	4.27	103%
Administrative	4.38	4.24	103%

3. Average trials before this Judge: 2.2

4. Area of Primary Practice

Collections: 0 Domestic: 17 Criminal: 22 Civil: 34 Other: 1

B. Court Staff Survey Overview:

Total Respondents: 25

1. "Should this judge be retained?"

Response	Number	Percent of Total
YES	24	100%
NO	0	0%

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

2. Statutory Category Scores:

Court Staff	Bagley	Peer Avg.	% to Peer
Communication	4.76	4.71	101%
Integrity	4.80	4.69	102%
Judicial Temperament	4.81	4.68	103%
Administrative	4.77	4.62	103%

C. Juror Survey Overview: Respondent group too small to report

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	Bagley	Peer Avg.	% of Peer Avg.
The Judge makes sound rulings.	✓	3.96	4.01	99%
The judge properly applies the rules of civil procedure.	✓	4.12	4.14	100%
The judge properly applies the rules of criminal procedure.	✓	4.22	4.14	102%
The judge properly applies the rules of evidence.	✓	4.20	4.12	102%
The judge's sentencing fits the offenses.	✓	4.11	4.01	103%
The judge makes appropriate findings of facts.	✓	4.09	4.07	101%
The judge appropriately applies the laws to the facts.	✓	4.06	4.06	100%
The judge follows legal precedent.	✓	4.16	4.12	101%
The judge only considers evidence in the record.	✓	4.10	4.08	100%
The judge's written decisions are clear and logical.	✓	4.08	4.09	100%
The judge's written opinions offer meaningful legal analysis.	✓	4.10	4.06	101%
The judge was fair and impartial.	✓	4.18	4.21	99%
The judge avoids impropriety and the appearance of impropriety.	✓	4.43	4.41	101%
The judge avoids improper ex parte communications.	✓	4.55	4.49	101%
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	4.43	4.36	102%
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.33	4.26	102%
The judge holds attorneys accountable for inappropriate conduct.	✓	4.11	3.97	104%
The judge's oral communication while in court is clear and logical.	✓	4.29	4.26	101%
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.36	4.29	102%
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.33	4.15	104%
The judge is prepared for argument and hearings.	✓	4.44	4.29	104%
The judge treats all attorneys with equal courtesy and respect.	✓	4.60	4.39	105%
The judge rules in a timely manner.	✓	4.29	4.24	101%
The judge realistically manages his or her calendar.	✓	4.41	4.20	105%
The judge convened court without undue delay.	✓	4.45	4.28	104%
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.	✓	4.67	4.48	104%

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	Bagley	Peer Avg.	% of Peer Avg.
The judge was fair and impartial.	✓	4.81	4.70	102%
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.	✓	4.83	4.71	102%
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.78	4.66	102%
The judge's oral communication while in court is clear and logical.	✓	4.71	4.71	100%
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.82	4.72	102%
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.68	4.54	103%
The judge is prepared for argument and hearings.	✓	4.85	4.75	102%
The judge treats all attorneys with equal courtesy and respect.	✓	4.80	4.72	102%
The judge rules in a timely manner.	✓	4.82	4.69	103%
The judge realistically manages his or her calendar.	✓	4.85	4.53	107%
The judge convened court without undue delay.	✓	4.69	4.62	102%
The judge is willing to make difficult or unpopular decisions.	✓	4.78	4.58	104%
The judge did not allow his or her personal beliefs to inappropriately influence the proceedings.	✓	4.80	4.70	102%
The judge explains the reasons for his or her decisions, when appropriate.	✓	4.75	4.72	101%
The judge works with pro se litigants fairly and effectively.	✓	4.83	4.72	102%
The judge’s personal life does not impair his or her judicial performance.	✓	4.83	4.73	102%
The judge maintains diligent work habits.	✓	4.84	4.59	105%
The judge’s interactions with court staff are professional and constructive.	✓	4.79	4.71	102%
The judge is an effective manager of his or her staff, operations and business.	✓	4.77	4.51	106%
The judge appropriately enforces deadlines and court orders.	✓	4.70	4.63	102%
The judge is appropriately accessible to court personnel.	✓	4.78	4.75	101%
The judge made sure that everyone's behavior in the courtroom was proper.	✓	4.76	4.69	101%
The judge reasonably accommodates changing technology.	✓	4.65	4.57	102%
The judge paid attention to the proceedings in the courtroom.	✓	4.89	4.79	102%

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.”

M. Bagley			
Attorney		Court Staff	
Attentive	29	Attentive	17
Calm	24	Calm	10
Confident	16	Confident	8
Considerate	23	Considerate	10
Consistent	14	Consistent	10
Intelligent	24	Intelligent	15
Knowledgeable	27	Knowledgeable	19
Patient	15	Patient	11
Polite	20	Polite	10
Receptive	16	Receptive	9
Arrogant	0	Arrogant	0
Cantankerous	0	Cantankerous	0
Defensive	1	Defensive	0
Dismissive	2	Dismissive	0
Disrespectful	0	Disrespectful	0
Flippant	0	Flippant	0
Impatient	2	Impatient	0
Indecisive	4	Indecisive	0
Rude	0	Rude	0

Positive	208	Positive	119
Negative	9	Negative	0
Positive	96%	Positive	100%

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE MARVIN BAGLEY

Five observers wrote 99 codable units that were relevant to 16 of the 17 criteria. Three observers reported that the judge was aware that JPEC observers were present and one reported that the judge was not aware (one did not comment).

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers were positive about Judge Bagley. All observers particularly emphasized that Judge Bagley encouraged all parties to fully express themselves, listened patiently to all that was expressed, indicated how he had taken into account all that was expressed, genuinely cared about the interests of those in his court, and thoroughly explained the reasons for the court's actions, procedures and his sentences. Most observers noted that Judge Bagley was both courteous and friendly while also firm and professional, as appropriate. Two observers reported that they would feel comfortable appearing before Judge Bagley (three did not comment).
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> One observer emphasized the order and discipline in the courtroom, whereas another noted the talking in the audience that was permitted and the length of time before a bailiff asked a participant to turn off a ringing telephone.
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> None

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

Summary and *exemplar language* of five observers' comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	Four observers reported that Judge Bagley always listened patiently and attentively, <i>facing the people before him</i> , and <i>asking questions that demonstrated that he was listening to understand</i> .
Well-prepared & efficient	Three observers reported that Judge Bagley <i>had all the files</i> and <i>was well prepared</i> , and knew when he had last seen drug court participants and their progress. He efficiently allowed a <i>complicated case</i> with <i>defendants some distance away</i> to be conducted by phone.
Respect for others' time	Two observers reported that Judge Bagley was <i>respectful of everyone's time</i> , for example by starting with the second case of the day when someone was waiting on the telephone, and offering those with <i>busy schedules</i> the <i>chance to set their own calendar</i> for continuance or trial.
Respectful behavior generally	Two observers reported that Judge Bagley was <i>compassionate in drug court</i> and <i>asked the audience to applaud when people had done well</i> . He was respectful after <i>stiff criminal sentencing</i> , saying for example "The court wishes you well and expects you to comply" or "I don't wish you any ill will. You've been on drugs for twenty years. I'm just pointing that out."

RESPECTFUL TONE

Courtesy, politeness and patience	Three observers reported that Judge Bagley said <i>good morning to everyone</i> , thanked <i>people for their hard work and comments</i> , saying for example “That’s a good suggestion. I’ll make that in my ruling. Thank you everyone.” Judge Bagley was <i>consistently patient</i> , allowing a <i>prosecutor to rant on</i> about a no show legal defender <i>who didn’t return his calls</i> . When a defendant was not present he <i>put that case later in the docket to allow the person time to arrive</i> .
Courtroom tone & atmosphere	Three observers reported that Judge Bagley was friendly and <i>humorous where appropriate</i> , with a more “ <i>free and easy</i> ” <i>demeanor in drug court than during law and motion</i> . He consistently balanced <i>justice with compassion</i> , was <i>professional but not stiff</i> , and smiling when they had made progress but <i>strict and firm when participants hadn’t</i> . One observer made <i>special note of the orderly and disciplined atmosphere that conveyed the gravity of the business</i> . But another noted <i>quite a bit of talking in the audience</i> , and when a <i>telephone went off</i> it was <i>quite a while before the bailiff asked the person to turn it off</i> .
Body language	Two observers reported that Judge Bagley <i>always had good eye contact</i> with whoever was talking and was <i>not distracted by other things going on in the court</i> .
Voice quality	One observer reported that Judge spoke with authority and projected so those in the audience could understand his rulings.

NEUTRALITY

Consistent and equal treatment	Four observers reported that Judge Bagley was <i>clearly concerned with both sides of each issue</i> , and <i>treated all parties equally in obtaining information and extending opportunities for their desired outcomes</i> . One observer was impressed with a case in which the judge’s concern for both sides led to the attorney’s acquiescence <i>and it seemed to be a positive outcome for everyone</i> .
Acts with concern for individual needs	All observers reported that Judge Bagley accommodated reasonable individual needs, for example allowing a <i>break in the schedule when he realized attorneys needed time to conference with their defendant</i> . In drug court he allowed flexibility in payment schedules for fines and in determining jail times, such as accommodating a defendant’s request for specific times to pick up her kids and allowing time to be served on weekends to avoid a defendant losing her job.
Expresses concern for the individual	Three observers reported that Judge Bagley <i>seemed to genuinely care about each person</i> , for example he was interested <i>that each party in a divorce achieve what they needed</i> . His connection with participants in drug court was <i>evident and effective, asking them about their progress and their jobs, etc</i> . He told one young man <i>who said he was scared for his kids and his parents</i> , “I think you need to be scared for yourself ... We still have confidence that you can succeed.”
Unhurried and careful	One observer reported that Judge Bagley <i>never seemed in a rush and was willing to listen to what everyone had to say</i> .

VOICE

Considered voice	All observers reported that Judge Bagley <i>encouraged people to speak</i> , asking all participants to <i>voice their views and present their requests</i> , and assured all that they would have a chance to speak, for example “I encourage you to keep talking”, and after being asked “Can I say something?” answering “I’d like you to.” H <i>consistently asked for and received recommendations</i> , and <i>explained his rulings in a way that showed he put credence into their input</i> , saying for example “I’m not requiring briefs, but if you file them, I’ll read them.” One observer particularly noted the difficulty that unrepresented participants may have in <i>trying to put their situation in the best possible light</i> and that <i>any person appearing before this judge had the maximum allowable opportunity to plead his case to the utmost advantage</i> .
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COMMUNICATION

Communicates clearly	One observer noted that Judge Bagley <i>surpassed every judge I have observed in his ability to clearly explain the consequences of waiving a right to a trial</i> , and another commented that the expression “privilege of probation” was <i>an impressive way to explain a suspended sentence</i> .
Ensures information understood	Four observers reported that Judge Bagley was <i>consistent in taking time to be sure all parties understood</i> what was taking place, <i>asking if each step was heard and understood</i> by both parties. Whenever right to a trial was waived Judge Bagley <i>questioned whether the defendant understood the consequences, explaining the sentencing guidelines for each offense</i> and if he/she understood. He asked one participant if he needed a translator or was comfortable speaking in English.
Provides adequate explanations	All observers reported that Judge Bagley clearly and thoroughly explained all matters in court, for example the basis for his sentences, the specific consequences of violating probation, and <i>what the law said that the judge needed to do</i> , in one case saying “My hands are tied, but you are the one who tied them.. When participants made requests that could not be complied with, Judge Bagley clearly explained why not, for example explaining <i>what the court’s [limited] responsibilities were in this situation</i> . One observer appreciated that Judge Bagley read <i>the charge out loud and clearly so everyone could hear and know which case was before the court</i> . One observer thought that when the judge told a defendant <i>he had a right to file post-conviction petitions and the defendant didn’t seem to understand what he could do next</i> , this could have been explained further.
