

## EYES ON THE COURT

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### *Peterson v. Richfield Civ. Serv. Comm'n*, 864 N.W.2d 340 (Minn. 2015).

The Minnesota Supreme Court unanimously held that a candidate's interview responses for an internal promotion did not meet the "records" requirement of Minn. Stat. § 419.06. The supreme court reversed the court of appeals which held that "nothing in the broad concept of 'records' mandates a writing." While the court of appeals found oral accounts by candidates regarding their background, experience, and character sufficient, the supreme court disagreed and reasoned that a candidate's oral statements could not be construed as records because they are not "kept in the regular course of the administration of a civil service system."

This case involved a fairly typical promotional process in a large suburban police department. Like many cities, the City of Richfield has an established police and fire civil service commission created pursuant to Minnesota Statute § 419.01. In July 2013, Richfield's commission approved a two-part procedure for filling vacant detective positions, which is considered a promotional position for patrol officers. Internal applications were received but applicants were specifically told not to submit a resume or any other supporting documents. The detective promotional process consisted of 1) a written examination, comprising 40% of the applicant's total score; and 2) an oral interview, comprising 60% of the applicant's total score. Police officer Greg Peterson applied but was not promoted, after which he filed a writ of certiorari arguing that Richfield's commission failed to review "records of [a candidate's] efficiency, character, conduct and seniority" as required by § 419.06(9). The court of appeals held that the commission met the statutory requirements and upheld the city's process because these records could be either written or oral.

The Minnesota Supreme Court reversed the court of appeals. While the supreme court noted that the relevant statute did not define the term "records", it stated that it had previously construed the term in *State ex rel. Kos v. Adamson*, 226 Minn. 177 (1948); a case in which another police promotional process was declared invalid because it relied on "information obtained or gathered for the occasion" and did not rely on "records kept in the regular course of the administration of civil service." The supreme court stated that the former opens the door to personal favoritism and influence, which the civil service laws were designed to prevent. Thus, the Minnesota Supreme Court concluded that a police and fire civil service commission fails to meet statutory requirements when it uses a candidate's oral responses during an interview to satisfy the need for records demonstrating "efficiency, character, conduct and seniority." Oral responses to interview questions, the court determined, are not records "kept in the regular course of the administration of civil service." The case (and promotional process) was remanded back to Richfield's police and fire commission for further proceedings consistent with the supreme court's opinion.

The lesson from this case for future promotional processes developed and administered by a city's police and fire commission under Minn. Stat. Chapter 419 is to ensure there is a paper review of candidates. Promotions must include the added step of gathering and reviewing *written* records on candidates, such as personnel files, which can be shown to depict "efficiency, character, conduct and seniority."