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August 3, 2021

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on the Future of Court Operations
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625

Dear Judge Grant:

This is a comment in response to the Court’s “Remote First” policy. I am an Assistant Deputy Public Defender in the Camden Trial Office. Since March 14, 2020, I have physically appeared in court fewer than five times. Nonetheless, I have been busy and productive. I have resolved 80+ cases, argued 30+ nontestimonial motions, and had 200+ spotty video conferences with incarcerated clients.

These numbers do not reveal what has been lost during the transition to “virtual first.”

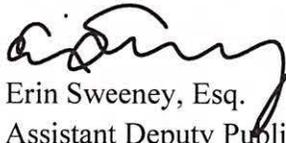
Communication between the attorney and the client has suffered immensely. Clients used to ask their attorneys questions before, during, and after court proceedings. Now, clients are so stressed about connecting their devices to audio, or worrying about their device battery dying before the judge calls their case, they almost never ask their attorneys questions. Incarcerated clients have suffered the most. Virtual court takes place in the jail, where it is loud and crowded, and the poor video and audio quality makes it difficult for clients to follow their own court hearings. Incarcerated clients can only speak to their attorneys during court proceedings if they request a Zoom breakout room—effectively interrupting the judge. Technological challenges make bringing an incarcerated client in and out of a breakout room arduous and time-consuming.

Additionally, virtual court has made negotiating with the state more difficult and protracted. Prosecutors are people, too. They are more responsive to counter-arguments, mitigating evidence, and pleas for sympathy when they are forced to hear them in-person, rather than via phone, Zoom, or email. Prosecutors can hide from recanting witnesses when they are not forced to see them in court.

Finally, virtual court has forced attorneys to abandon their clients at sentencing. In person, we would stand next to our clients as they were sentenced. We would console them and their families, answer any last-minute questions, shake their hands, and try to find a meaningful way to say goodbye, whether they were being sentenced to probation or decades in state prison. Now, our clients are forced to stand alone, their families watching on a spotty Zoom feed, while the judge, sitting in the comfort of his or her own home, sentences our clients to uncertain futures.

Virtual court has been a boon for clients with status conferences who do not want to call out of work or scramble to find childcare. A virtual option should remain for clients who want it. Better technology for our clients—in the jail and on the street—would likely mitigate some of the harms of the “virtual first” approach. However, the costs of a “virtual first” approach for our clients and their cases outweigh the benefits. I urge the Court to reconsider the “virtual first” policy.

Best,



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