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M:275.16

SUPERIOR COURT OF NEW JERSEY
MUNICIPAL DIVISION

COUNTIES OF
ATLANTIC AND CAPE MAY
VICINAGE I

Louis J. Belasco, Jr.
Presiding Judge

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June 1, 2016

Honorable Glenn A. Grant, J.A.D.
Acting Administrative Director
Comments on Pretrial Release Rules (Criminal)
Hughes Justice Complex, P.O. Box 037
Trenton, New Jersey 08625-037

Dear Judge Grant:

The proposed modifications to Rule 3:3-1 do not address violations of restraining orders, N.J.S.A.2C:29-9(b). Presently, it is my understanding that all such violations are placed on a CDR-2, complaint-warrant. Domestic violence contempt, and law enforcement procedures found at N.J.S.A.2C:25-32, requires law enforcement to:

-Arrest a defendant and take him or her into custody;
-Search the central registry and sign a complaint
-Communicate with the appropriate judge to have bail set
-Incarcerate any defendant who cannot post bail.

In addition, the Domestic Violence Procedures Manual, Law Enforcement Section 6.4.1 states that a warrant should be issued immediately; and that upon arrest the CDR-2 should be sent to the Superior Court. When the Manual is in conflict with any statute or court rule, the latter control, and the law enforcement section of the Manual is not binding on the Judiciary, nevertheless, the practice in the State is that all 2C:29-9(b) contempts are placed on a warrant. A summons with restraints would be redundant since restraints would already be in place through the TRO or FRO.

Placement of these contempts on a warrant could be authorized under proposed R.3:3-1(d):

> There is reason to believe that the monitoring of pretrial release conditions by the pretrial services program established pursuant to N.J.S.A.2A:162-25 is necessary to protect any victim, witness, other specifies person, or the community.

The Rule still leaves discretion with the judge or judicial officer to use a summons instead of a warrant. A summons would appear to be in conflict with the statutory language of 2C:25-32. Furthermore, immediate release on a summons may put the victim at further risk of future violations.

I would recommend that R.3:3-1(e), Offenses Where Issuance of a Warrant is Required, be amended to include contempt of an order entered under the provisions of the "*Prevention of Domestic Violence Act of 1991*".

Very truly yours,

Louis J. Belasco, Jr., P.J.M.C.

LJB/anh