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From: Joseph S. Murphy, Esq. <jsmurphy@optonline.net>
Sent: Monday, June 06, 2016 5:43 PM
To: Comments Mailbox
Subject: Comment on Recommended Court Rules to Implement Bail Reform Part One, Pretrial Release

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts Comments on Pretrial Release Rules Criminal Hughes Justice Complex, P.O. Box 037 Trenton, NJ 08625-0037

Your Honor:

One of the biggest faults of the old bail system was that bail would get set before any discovery was begun. Many a defendant sat in jail on a high bail because his attorney was unable to demonstrate the weakness of the State's case because he couldn't get even exculpatory materials out of the prosecutor until after indictment. Often, once discovery was obtained, a Motion to Reduce Bail to a Reasonable Amount would be granted because a defendant was able to show the weakness of the State's case. Just as the strength of a case is reason why a defendant may run so, too, is the weakness of a case the reason why a defendant is more than likely to show up for trial.

The New Criminal Bail Reform Law-Part One, Pretrial Release goes a long way in correcting that injustice. It seems clear to me that any exculpatory evidence should be turned over forthwith. New Jersey practitioners know that obtaining exculpatory evidence from the State is sometimes extremely difficult. Today's article in the New York Times noted that "the most serious prosecutorial violation is the withholding of evidence that could help a defendant...a practice so widespread that one federal judge called it an "epidemic". The article actually calls for Federal oversight for State Prosecutor Offices to correct such violations and monitor State Prosecutors. It seems to me that if our Attorney General Robert Lougy continues to try to find reasons and to recommend rules that delay exculpatory evidence, he may find himself monitored.

Therefore, I support the Prosecutor's obligation to provide all relevant material in its possession that would be discoverable at the time of indictment, as set forth in Paragraph (a) of Rule 3:13-3, a Rule proposed by the Public Defender's Office. One of the major flaws of the old bail system was that people sat in jail for such lengthy periods of time that they often pled guilty even where they had a defense in a case. The adoption of this Rule will help prevent that from reoccurring under this Act.

Very truly yours,

/s/ Joseph S. Murphy, Esq.

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