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Sent: Tuesday, February 24, 2015 8:25 PM
To: Comments Mailbox
Subject: Criminal Practice Committee Report.

I completely agree with the dissents on R.3:28 changes. There is absolutely no reason to limit who can apply to PTI. If this rule change is simply because there are disagreements as to who does the work of reviewing the application, that is certainly no reason to change the rule and upset settled law. A better alternative is to have the AOC rule on who does what and thus who bears the costs.

There is one change I would like to see; in cases where it is reasonably likely that the defendant is either insane or had diminished capacity thru no action of his own he/she be permitted to be accepted into PTI a second time. My example: I have a matter where my client received a conditional discharge 20 years ago for a very minor amount of marijuana. He has no other criminal conduct. Recently he was indicted for 4th degree trespass. At the time he was found standing in a neighbors' house at 2 am. He told the victim and her boyfriend that he went there because he heard voices telling him that he would be safe there. After he was arrested the next afternoon he told the officers that he went to his neighbor's house because the neighbor wanted to see him. After getting out of the county jail he voluntarily went thru two hospitalizations for depression, one right after the other, where he was finally diagnosed as suffering from depression with hallucinations. He was given medication; his symptoms are under control and he is working in a licensed occupation without incident. He would qualify for PTI except for the prior conditional discharge 20 years ago. He is without fault. The plea offer is a disorderly persons offense. When he previously accepted that offer he found he could not get a job. Now we may have to go through a very expensive trial because he cannot be accepted into PTI (or plead guilty to the DP and take a very expensive appeal). This situation is seemingly turning the purpose for PTI on it's head. I strongly urge the Committee to consider this change in these rare circumstances.

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