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From: James Britt <jamesjohnbritt@yahoo.com>
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To: Comments Mailbox
Subject: Comment on Supreme Court Committee Report

The Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees addresses the symptoms of the disease that infects the municipal courts in New Jersey; it does not address the disease: local control. The Committee understands the motivations of local control as well as the former Chief Justice Robert Wilentz, who said, "...the people who have the power to make the appointment want to keep the power to make the appointment." Ask why. Local municipal courts, by the admission of the Committee, function less as a judiciary, and more as a slightly removed branch of the town council. The town council selects the judge and if revenue and/or outcomes are not to the council's liking, the judge is replaced. None of the recommendations would prevent this. In fact, the recommendations for the selection of judges would only add another layer of confidential decision making to the concealed (but obvious) deliberations of local officials.

Applying the recommendations of the Committee for a "Qualifications Committee" in Burlington County would create a scenario in which Dennis McNerney, the Presiding Judge for the Municipal Courts in Burlington County, would chair a committee deciding behind closed doors whether or not a judge is qualified. Dennis McNerney is one of two municipal court judges identified by Chief Justice Rabner in his April 17th memorandum as engaging in "disturbing" and "troubling" practices. Chief Justice Rabner was kind- the first judge cited pleaded guilty to falsifying records (in order to please local officials with revenue) and the second, McNerney, violated a man's Constitutional Rights by ordering him jailed for an inability to pay a fine. Chief Justice Rabner did not comment on the motivation of both judges: local revenue.

Strangely, Mr McNerney has added to the list of towns in which he presides since Burlington settled the lawsuit with the jailed man for \$180,000. He also remains the Presiding Judge for the Municipal Courts in Burlington County. Even more strangely, McNerney was appointed to that oversight position by Chief Justice Rabner in 2013. McNerney attempted to jail a man over an inability to pay a littering ticket just one year later. It strains credulity to suggest that Mr McNerney was a decent, fair-minded judge when he was appointed. Rather, it is much more likely that Chief Justice Rabner appointed him on experience alone- something he likely acquired by pleasing local officials with revenue.

The Report is right to focus on contempt sanctions. These sanctions are (improperly) enforced by judges for what? Revenue. Examining use of contempt by municipal court judges would be one of the fastest and easiest ways to identify revenue-minded, and thus unqualified, judges. The Committee authoring the Report knows this, refers to the monitoring of contempt sanction numbers within individual municipalities, but offers no local data. Why shouldn't the public know the amount being collected through the use of unlawful contempt sanctions? Are we

to trust the Presiding Judge of the Municipal Courts in the county to prevent contempt abuse when he or she is a municipal court judge who might benefit from participation in the abuse?

Within the past month I have witnessed a municipal court judge ask a four-week clean heroin addict who was unable to pay a fine if the man had a cell phone. When the man in recovery answered that he did have a cell phone, the judge told him to go into the lobby and “work the phone” until he had \$200 for the court. In the same court, on a recording of court proceedings from 2014, I heard the same judge issue a warrant for the arrest of someone who had failed to appear on a ticket for having not changed an address on a driver’s license. The same recorded court session includes an appearance by a man from the county jail. He missed a time payment obligation and was arrested and jailed for at least sixteen days. He spent Christmas and New Years in jail. It was his daughter’s first Christmas. He missed it because a local judge was motivated by revenue.

Local control means local revenue. If the recommendations in the Committee Report are enacted and revenues decrease as a result, local officials will have even less interest in their municipal courts and the courts will be viewed as more of a nuisance than they are presently. Localities will likely decrease expenditures on judges, prosecutors, public defenders, etc, and the quality of these courts will reach a new nadir. The solutions suggested by the Committee should satisfy the principles cited by the Committee earlier in the Report. Principles 1 and 2 in the Report stress the necessity of independence. The recommendations in the Committee’s Report do not guarantee independence, they simply encourage it. Until local control is eliminated, municipal courts will remain infected.

James Britt