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From: Scott Kieserman <scott.kieserman@gmail.com>
Sent: Wednesday, July 28, 2021 10:18 AM
To: Comments Mailbox; Lorraine Hunter-Hoilien; Carl.Herman@opd.nj.gov
Subject: [External]Virtual Hearings

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To the Supreme Court of New Jersey:

Your Honors:

I am writing to express that as a member of the New Jersey Bar and as an attorney in the Division of Mental Health Advocacy, I cannot properly fulfill my ethical responsibilities to represent my clients at Civil Commitment proceedings which as the Court is aware, involve the fundamental constitutional right to liberty, when the hearing is conducted on a computer instead of in a courtroom. Over the last year and a half I have done the best I could under circumstances which none of us could avoid because of the pandemic. I could not turn to my client and provide counsel during the proceeding regarding the client's behavior in court or speaking in court. I could not explain things to my client during the proceeding. I could not speak to my client in a way which might bring comfort during the stress of hearing testimony about the client's illness. I could not look around at everyone in the courtroom, or even know who was in the courtroom to get a sense of how people were reacting or thinking about the hearing.

While doing hearings at Trenton Psychiatric Hospital years ago, I saw another attorney reading questions to the psychiatrist who was first looking at the hospital's legal counsel, who was indicating yes or no, before answering a question. I could see this only because I could see the whole courtroom and the hospital's lawyer was sitting behind the lawyer asking the questions. More than once I have asked the court to clear the courtroom and the court has agreed that it was necessary. On the computer, we don't know who is in the courtroom outside the view of the camera.

Certainly it is easier to do court over a computer but that is all that can be said for it. It was easier for me to interview my clients over the telephone prior to the hearings but now that I am again permitted into the hospital and can meet with my clients, literally twice as many of them agree that they need further treatment and do not contest the commitment recommendation. In addition to the benefit of receiving further care, my clients then know that their attorney, who is bound to zealously represent them, feels that they are not being held illegally for reasons which they do not understand. They also know that I am aware of who they are. They deserve to be able to look across the room at the judge and have the feeling, correctly, that they have their day in court.

I am 71 years old and proud to be a lawyer in New Jersey. It is troubling to me that disabled people in my state would be treated differently than people whose liberty is at stake but do not have that disability. This is why I am writing to you as an attorney individually.

Respectfully Submitted,

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