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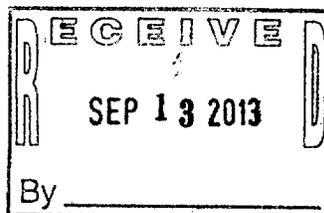
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Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Ave. North
Nashville TN 37219-1407



Re: 2014 Rules Package
No. ADM2013-02056

Dear Mr. Catalano:

I write to express my views on the proposed amendments to the Tennessee Rules of Procedure and Evidence. My comments are made below with specific reference to the particular proposed rule.

- TRAP 9 It is time for the appellate courts of this state to implement electronic filing once and for all. Paper briefs, along with the requirement for different colored covers, is archaic and severely outdated. The federal courts in this district implemented electronic filing in 2006 and serve as a resource for the implementation of electronic filing in the state courts. I remember when I first starting practicing in 1997 that many courts insisted on 14 inch paper and the gnashing of teeth when 11 inch paper finally became mandatory. Eventually, the pain of those who adhere to old ways and eschew progress subsided and the sky did not fall in. It would be the same with electronic filing. Many will cry and complain but eventually the change will be embraced. It is time to face the pain and implement electronic filing without further delay.
- TRAP 10 See above.
- TRAP 11 See above. Paper copies are bad for the environment, unnecessarily increase the cost of litigation, waste valuable resources, and increase our carbon pollution. It is time to stop this practice.
- TRAP 24 While I applaud the provision requiring an electronic copy of any transcripts, it begs the question as to why only the transcript and not the entire record. I propose that the entire record be submitted electronically in pdf format by the trial court clerk.

TRAP 25 This proposed rule needs to be proof-read as there are several typographical errors. For example, Page 14, line 263 should read “After filing *the* notice of appeal....”; Page 15, line 278, the semi-colon should be a period and the first word of the next sentence capitalized; Page 15, line 287, “contained therein” is archaic legalese and superfluous.

TRCrimP 15 This amendment is confusing. A magistrate is defined under T.C.A. 40-5-101 as any officer having power to issue a warrant for the arrest of a person charged with a public offense. Thus, this would include judicial commissioners. T.C.A. 40-5-102(3). In most counties, judicial commissioners, who are mostly non-lawyers, are the first to see the defendant upon their arrest and issue a preliminary court date based on a schedule issued by the general sessions judges of that county. Additionally, T.C.A. 40-1-106 defines the county mayor as a magistrate. The initial appearance may be anywhere from one week away to months away. So, by the actual wording of the amendment, as soon as the defendant sees a judicial commissioner or even the county mayor, the defendant may file a motion in criminal court (a court of record) to take a deposition. Yet, since the defendant has not appeared in General Sessions and has not had their case bound over to the grand jury, most criminal courts would claim to not have jurisdiction over the case until the grand jury issues an indictment. What would be the case number? Alternatively, you would have two courts with simultaneous jurisdiction - the criminal court with jurisdiction over the motion to depose a witness and the general sessions court with jurisdiction over the preliminary hearing. This is confusing and unnecessarily complicated. There is no reason given for why the motion to depose a witness cannot be filed in whichever court has the jurisdiction at the time the motion is filed.

Sincerely,

Jerry Gonzalez