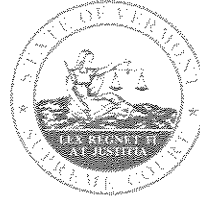


PROBATE COURT  
District of Washington



(802) 828-3405

George Kendrick Belcher, Probate Judge  
Janice M. Brown, Register  
Cora C. Walbridge, Clerk

10 Elm Street, #2  
Montpelier, Vermont  
05602

October 20, 2009

Eileen Blackwood, Esq.  
Hon. Brian Gearson

Re: Commission on Judicial Operations

Dear Attorney Blackwood and Judge Gearson:

Thank you for coming to the Washington County Bar Meeting on October 14, 2009. At the meeting you asked for members to give you feedback if we had concerns about the recent filings on the Commission website. It is my general belief that regionalizing the probate system will significantly reduce access to justice. In my view, the inconvenience and limits which will be placed on the public, do not justify the projected savings.

Having said this, I did want to point out my specific disagreement with the recent "Clarification" to the Restructuring Workgroup report. The original report proposed that the Chittenden District Probate Court expanded statewide could handle the state population if there were 5.4 full time probate judges with supporting staff. The ultimate recommendation of 5 judges was justified, in part, by the removal of contested cases to the trial courts. Whether this was a "drafting error" or not, it appeared to be used to justify a number of judges below the level required. The National Center for State Courts weighted caseload study showed a need for 6.2 full-time probate judges. This figure is now sought to be reduced to 5 full-time judges, again, based upon:(1) the hours per day worked, and (2) the NSCS adequacy-of-time survey.

The proposal call for the full-time probate judges to be legally trained (as they should be), to rotate within a district of up to five counties, to work 9.5 hour days, and to be ready to be assigned to do other trial work by the Administrative Trial Judge. Under this vision, they should probably be compensated at the same rate as the trial judges. The adequacy of time survey showed that the current probate bench (of mostly part-time judges) had adequate time to do its work. I am a part-time judge, so I should be able to take the time necessary to do my work. I

know that the other probate judges generally place their judicial duties before their other work. The adequacy of time survey provides no justification, whatsoever, for reducing the number of judges required.

Finally and most importantly, it is overly-simplistic to think that the Chittenden caseload and service can be fairly projected over a broad area of the state. Chittenden County is a population center with one major hospital and all the nursing homes confined to one county. A significant portion of the work of a probate judge is generated by hearings held when a patient is incompetent and there is no surrogate. An emergency guardianship is often required to provide medical treatment, nursing home admission, or end-of-life decisions. In the so-called "northern district," there would be three major hospitals to cover in a five-county area. In the "central district," there would be four major hospitals if one includes the Vermont State Hospital. It is unrealistic to project our most *urban*, probate district over the remainder of our *rural* state and hope that it can be handled. It will not work. The "clarification" statement about the experience of the Environmental Court is ironic. That court was under-staffed in its early stages and caused a crisis in environmental litigation in the state. Using that "experience with the Environmental Court" is a frightening justification for what is being proposed.

Thank you for your consideration of the above.

Very truly yours,

  
George K. Belcher

Cc. Hon. Tobias Balivet  
Bob Paolini, Esq.