



**IN RE IN THE MATTER OF THE DISMISSAL OF UNRESOLVED
MUNICIPAL COURT CASES THAT INVOLVE CERTAIN MINOR
OFFENSES THAT ARE MORE THAN 15 YEARS OLD**

Docket No. PAS-L-3211-18

PANEL REPORT

December 17, 2018

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December 17, 2018

**To: Chief Justice Stuart Rabner
Associate Justices**

**From: Hon. Ronald E. Bookbinder, A.J.S.C. (Burlington)
Hon. Ernest M. Caposela, A.J.S.C. (Passaic)
Hon. Yolanda Ciccone, A.J.S.C. (Somerset/Hunterdon/Warren)**

**Subj: Report of the Panel Regarding Dismissal of Unresolved Municipal Court
Cases That Involve Certain Minor Offenses That Are More Than 15 Years
Old**

Dear Chief Justice:

We are pleased to submit to you the final report of the three-judge panel charged with holding public hearings to determine whether older, minor municipal court complaints pending for more than fifteen years should or should not be dismissed. (Appendix A, pp. 8-10).

To assist the Court in its consideration of this report, the panel has adopted the following format: an executive summary that includes a synopsis of our recommendations; the background of the basis for the hearings and referral; a summary of commentary received in advance of and at the public hearings; and an expanded discussion of the panel's recommendations.

EXECUTIVE SUMMARY

On July 19, 2018, the Supreme Court issued an order seeking guidance as to the appropriate way to address older, pending municipal court complaints that involve minor matters. The Court found that such matters raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency.

By way of its order, the Court established a three-judge panel consisting of the Hon. Ronald Bookbinder, Hon. Ernest Caposela, and Hon. Yolanda Ciccone, Assignment Judges of the Superior Court. The panel was charged with holding three regional hearings to determine the appropriate way to address older, pending municipal court complaints that involve minor matters.

Those hearings were held on October 22, 23, and 24, in Essex County, Somerset County, and Burlington County, respectively. In advance of those hearings, municipalities with complaints subject to the Court's order were notified of eligible matters and a Notice to the Bar was published notifying all stakeholders of the hearings. The panel received written submissions from ten individuals representing special interest groups as well as their own interests. Seven of those submissions were supplemented by oral presentations at the hearing dates.

Upon review and consideration of the issue presented and the written and oral submissions made, the panel recommends the following:

- 1) The central dismissal of matters implicated by the Court's July 19, 2018 order: older, pending minor municipal matters that have open warrants for failure to appear and have been open for more than 15 years; and
- 2) The development of a formal protocol for the continued, annual dismissal of older matters that have been open for more than 15 years.

BACKGROUND

On July 17, 2018, the Court released a report prepared by the Supreme Court Committee on Municipal Court Operations, Fines, and Fees ("Committee report").¹ In that report, the Committee recommended the development of a process for the dismissal of old complaints, taking into account the seriousness of the offense charged, the age of the case, and other relevant factors. (Committee report, p. 51). The narrative to that recommendation referenced ongoing discussions within the Judiciary regarding the statewide dismissal of certain less serious, outstanding municipal court matters that have an open failure to appear bench warrant. Id.

Those Judiciary discussions led to a July 19, 2018 order from the Supreme Court establishing a three-Assignment Judge panel to hold three regional hearings to determine the appropriate way to address older, pending municipal court complaints that involve minor matters. (Appendix A, pp.8-10). In that order, the Court discussed the existence of 787,764 unresolved cases—335,619 involving parking tickets and 348,631 relating to tickets for moving violations with open warrants for failure to appear—all initiated prior to 2003. Id. at 8. Those matters involve minor offenses, such as parking violations, motor vehicle offenses (i.e., going through a stop sign, improper passing, general motor vehicle equipment violations, certain speeding offenses, and running a red light), local ordinance violations, fish and game violations, penalty enforcement actions, and related matters. Not included were more serious matters, as enumerated in the Court's order.² Id.

¹ The report can be found at the following locations:

<https://www.njcourts.gov/courts/assets/supreme/reports/2018/sccmcoreport.pdf> (report only)
https://www.njcourts.gov/courts/assets/supreme/reports/2018/sccmcoreport_wapp.pdf (report with appendices)

² Those excluded, enumerated offenses include the following: (1) Indictable charges; (2) Disorderly persons charges; (3) Petty disorderly persons charges; (4) The following motor vehicle charges: N.J.S.A. 39:3-10 Driving without a license; N.J.S.A. 39:3-10.13 Operating a commercial vehicle while intoxicated; N.J.S.A. 39:3-10.24 Refusal to submit to a breath test while operating a commercial vehicle; N.J.S.A. 39:3-10.18(b) Operating a commercial vehicle while commercial license suspended or revoked; N.J.S.A. 39:3-40 Driving while license suspended or revoked; N.J.S.A. 39:4-49.1 Drugs in a motor vehicle; N.J.S.A. 39:4-50 Driving while intoxicated; N.J.S.A. 39:4-50.4a Refusal to submit to a chemical test; N.J.S.A. 39:4-50.14 Underage driving while intoxicated; N.J.S.A. 39:4-50.19 Failure to install an interlock device; N.J.S.A. 39:4-96 Reckless driving; N.J.S.A. 39:4-98 Speeding (in excess of 35 mph over the posted speed limit); N.J.S.A. 39:4-128.1 Passing a stopped school bus; N.J.S.A. 39:4-129(a), (b) Leaving the scene of an accident resulting in personal injury or property damage; N.J.S.A. 39:6B-2 Driving without insurance; N.J.S.A. 12:7-

The Court indicated that these “old outstanding complaints and open warrants in minor matters raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency.” Id. at 9.

To determine the appropriate way to address these older, minor matters, the Court appointed the Hon. Ronald Bookbinder, Hon. Ernest Caposela, and Hon. Yolanda Ciccone, Assignment Judges of the Superior Court, to serve on the panel and conduct a series of hearings in the northern, central, and southern parts of the State as to why older, minor municipal court complaints pending for more than 15 years should not be dismissed. Id. at 9-10.

The Court instructed that notice of the hearing dates be provided to the public and various interested organizations, including the Municipal Prosecutors Association, League of Municipalities, all municipalities that have open matters implicated by the Court’s July 19, 2018 order, Attorney General, County Prosecutors, Public Defenders, New Jersey State Association of Chiefs of Police, New Jersey State Bar Association, Association of Criminal Defense Lawyers, and American Civil Liberties Union. Id. at 10. Impacted municipalities were to also receive a list of cases for their municipal court that would be eligible for dismissal pursuant to the Court’s order. Id.

In advance of the hearings, the Court required that interested parties submit in writing their position as to the dismissal of older, pending, minor municipal court matters. Id. At the conclusion of the hearings, the panel was to issue a report to the Supreme Court presenting a “recommendation for the general disposition of older, minor municipal court matters, and, if appropriate, a recommended process and timeframe to raise challenges to the dismissal of individual complaints against specific defendants.” Id.

On October 1, 2018, the Acting Administrative Director of the Courts issued an administrative order to carry out the mandates of the Court’s July 19, 2018 order. Id. 3-6. That order was widely disseminated to interested parties via a Notice to the Bar. Id. at 1-2. Additionally, Municipal Court Administrators were required to provide copies to their governing body and their municipal prosecutor. The order required that regional hearings be scheduled for October 22, 23, and 24, in Essex County, Somerset County, and Burlington County, respectively. Id. at 4. The afternoon session of each hearing was to solicit comments from representatives of the affected municipalities, including, but not limited to, mayors, attorneys for the municipality, and municipal prosecutors. Id. The morning session of each hearing was to solicit comments from all others who wished to speak, including, but not limited to, members of the public and public interest groups. Id. Written comments and requests to speak were to be submitted to the panel by October 15, 2018. Id. at 5. Each speaker’s oral presentation was limited to five minutes. Id. A summary of those written comments and oral presentations follows.

46 Boating while intoxicated; (5) or cases associated with a matter in any of the above categories. (Appendix A, pp. 8-9).

SUMMARY OF WRITTEN COMMENTS AND ORAL PRESENTATIONS

A complete list of the providers of the written comments is provided below. A total of ten written comments were received from a number of special interest organizations, two municipalities, and a solo practitioner. (Appendix B). If a written submission was not accompanied by a request to speak and oral presentation, it is so noted. One oral presentation, from Nancy Griffin, Esq., was not preceded by written comments.

- American Civil Liberties Union of New Jersey (ACLU-NJ); the Drug Policy Alliance (DPA); the Latino Action Network, New Jersey (LAN-NJ); the National Association for the Advancement of Colored People, New Jersey State Conference (NAACP-NJ); and the New Jersey Institute for Social Justice (NJISJ) (collectively, Civil Rights Groups);
- Borough of Audubon;
- Borough of Collingswood (no oral presentation);
- Camden Coalition of Healthcare Providers (no oral presentation);
- Nancy Griffin, Esq., (no written comments submitted);
- Michael A. Hoffman, Esq.;
- New Jersey State Bar Association (no oral presentation);
- New Jersey State Municipal Prosecutors Association;
- Seton Hall Law School Center for Social Justice – Civil Justice Clinic;
- Volunteer Lawyers for Justice; and
- Volunteers of America, Delaware Valley.

The written comments and complete transcript of the oral presentations have been appended to this report. (Appendix B, 1T, 2T).

The comments can be grouped generally as comments in favor of dismissal, comments suggesting modifications to the proposed dismissal process or procedure, and a comment in opposition of dismissal. Each category of comments will be discussed below.³

COMMENTS IN FAVOR OF DISMISSAL

The vast majority of written comments put forth an overall consensus of approval of the wholesale dismissal of the 15-year-old municipal matters identified in the Court's order. Favorable commentary overlapped in many respects, and has been summarized below:

- Older warrants have little benefit to public safety, will frustrate people from coming forward as a victim or witness, can lead to unnecessary contact with law enforcement, and will impact defendants who are unlikely to pose a danger to the public (Appendix B, pp. 1-2, 1T:10-19 to 11-7);
- Dismissal promotes fairness and justice for those recently released from incarceration or with criminal records who face barriers—including open bench warrants and suspended

³ To the extent any submissions included comments on the report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees, they will not be referenced in this report. Public comments solicited for the dismissal hearings were limited to the issue of dismissal only. (Appendix A, pp. 4, 10).

driver's licenses—from successful reentry into society, i.e., seeking employment and housing, and helps avoid reliance on public benefits (Appendix B, pp. 8, 15-17, 19-20; 1T:6-15 to 7-9; 1T:14-4 to 16-1; 2T:15-9 to 15-22; 2T:17-9 to 18-13);

- Dismissal will end the entrapment of low-income individuals in a cycle of permanent, money-related punishment (Appendix B, p. 25; 1T:7-22 to 8-3);
- Dismissal will reduce the reliance on fines and fees as a source of revenue for municipalities (Appendix B, pp. 24-25; 1T:12-8 to 18; 2T:14-16 to 15-8);
- Dismissal will allow limited pro bono legal services to be used to assist low-income individuals with more pressing matters (Appendix B, p. 16);
- The dismissal process properly balances the likely difficulty municipal prosecutors will face in moving forward minor matters—due to the passage of time, difficulty to locate witnesses, fading memories of available witnesses—with the need for relief for defendants who have long since moved on from minor infractions (1T:8-25 to 9-6);
- The dismissal process makes available the limited administrative resources in municipal courts to handle more current matters (Appendix B, p. 16); and
- The dismissal process is appropriate, as the costs of enforcement will exceed fees to be collected (Appendix B, p. 24; 1T:12-19 to 13-1).

Organizations and individuals supporting dismissal include the Civil Rights Groups, Camden Coalition of Healthcare Providers; Nancy Griffin, Esq.; New Jersey State Municipal Prosecutors Association; Seton Hall Law School Center for Social Justice – Civil Justice Clinic; Volunteer Lawyers for Justice; and Volunteers of America, Delaware Valley. (Appendix B, pp. 1-2, 8, 14, 15-17, 19-20, 22-25).

COMMENTS SUGGESTING MODIFICATIONS TO POLICY OR PROCEDURE

There were additional proposals in which the authors agreed that dismissal of older, minor municipal matters is appropriate, but sought modifications to the policy or procedure put forth by the Court. These proposals can be grouped into two general categories: 1) suggestions for the expansion of excluded offenses; and 2) a suggestion for a modified dismissal process that is based on creating and imposing statutes of limitations.

1) EXPANSION OF EXCLUDED OFFENSES

Both the Borough of Collingswood and the New Jersey State Bar Association (“NJSBA”) expressed support for the proposed dismissal in general, but argued in favor of additions to the exclusions list put forth by the Court. (Appendix B, pp. 6-7, 12-13).

The Borough of Collingswood argued for the addition of two stand-alone moving violations: 1) N.J.S.A. 39:4-130, failure to report an accident; and 2) N.J.S.A. 39:3-17, touring privileges of non-resident chauffeurs or drivers. Id. at 6-7. Collingswood asserted that those offenses involve issues that are critical to public safety and the accurate enforcement of motor vehicle laws. Id. Drivers who are under the influence, unlicensed, or driving with a suspended license are more likely to flee the scene of an accident to avoid interactions with law enforcement. Id. at 6. Further, the immediate reporting of motor vehicle accidents is essential to ensure that timely medical care is

provided to injured persons, and that those injured can seek appropriate redress from the responsible party. Id. at 6.

The NJSBA's proposal was broader, and called for the exclusion of all moving motor vehicle violations that carry serious ramifications. Id. at 12-13. The NJSBA suggested that a threshold be established using factors such as whether and how many points are assessed for a violation, and whether a violation or repeat violation would result in required attendance at a remedial driver improvement program or a reversing of the active status of a driver's license. Id. at 13. The NJSBA argued that in instances where a motor vehicle violation carries serious ramifications, dismissal would be an inappropriate reward for the defendant's delinquency. Id. Additionally, there will likely be no prosecutorial difficulties in prosecuting such cases, as the NJSBA posits that there is likely to be a more comprehensive record—including video recordings—in the case of certain moving violations. Id.

2) MODIFIED DISMISSAL PROTOCOL

Michael A. Hoffman, Esq., provided comments and testimony in support of the proposed policy, but against the proposed practice. (Appendix B, pp. 9-11). He opposed the one-time cleansing of the docket, and suggested that the panel consider using concepts and doctrines currently in existence. Id. at 9. Mr. Hoffman proposed the imposition of two statutes of limitations that would place municipal matters onto two tracks, both pre-disposition and post-disposition.

Pre-disposition, less serious matters such as speeding, traffic, parking, and fish and game, would be subject to a five-year statute of limitation contained in N.J.S.A. 2C:1-6(b)(1) ("A prosecution for a crime must be commenced within five years after it is committed"), that would be eligible for a petition for renewal under the doctrine of scire facias, using methodology discussed in Adamar v. Mason, 399 N.J. Super. 63 (App. Div. 2008). Id. at 10. Post-disposition, those less serious charges would be subject to the civil judgment statute of limitation of 20 years contained in N.J.S.A. 2A:14-5 ("A judgment in any court of record in this state may be revived by proper proceedings or an action at law may be commenced thereon within 20 years next after the date thereof, but not thereafter."). Id.

More serious charges, as enumerated by the Court, would be subject to the same five-year statute of limitation pre-disposition, but would be presumptively revived every five years. Id. Those charges would also be subject to the same post-disposition civil judgement statute of limitations of 20 years, but would be presumptively revived once for a total of 40 years. Id. Mr. Hoffman recommended that one year prior to the expiration of the statute of limitations, a list of cases eligible for dismissal be generated and provided to the prosecutor. Id. at 10-11.

Mr. Hoffman argued that his proposal has the added benefit of allowing matters to be administratively cleared from the court docket in relation to specific individuals, and presents alternatives for individual cases where justice would best be served by extending the statute of limitation and possibility of prosecution, thereby addressing the public policy concern regarding penalties and consequences. Id. at 10-11.

COMMENT IN OPPOSITION

Opposition was limited to one submission from the Borough of Audubon. (Appendix B, pp. 4-5). The basis for opposition was three-fold:

- The inappropriate message given to residents of New Jersey and the municipality that a free pass is given to those court users who wait and refuse to hold themselves accountable for their offenses;
- The absence of any judicial economy benefit to Audubon, as it has a system to track older, outstanding cases and report those delinquencies to the Motor Vehicles Commission; and
- The contemplated dismissal will erode the trust of the Borough for those defendants who recently came forward to resolve older cases.

A representative of Audubon proposed that instead of outright dismissal, municipalities be given the opportunity to opt out of the procedure, and to demonstrate how they are monitoring older, open matters while they continue to enforce them. (2T:11-14 to 24).

RECOMMENDATIONS

The panel has been charged with developing recommendations for the general disposition of older, pending, minor municipal court matters, and, if appropriate, a recommended process and timeframe to raise challenges to the dismissal of individual complaints against specific defendants. The panel has developed two recommendations in fulfillment of this charge.

The first relates to the dismissal of eligible offenses identified in the Court’s July 19, 2018 order and distributed to municipalities. The second relates to the development of an ongoing protocol formalizing this process of dismissal of older, minor offenses. The panel determined that a process to raise challenges to the dismissal of individual complaints against specific defendants was not necessary due to the absence of submissions calling for the same. Moreover, the Panel believes that interested parties have been provided ample opportunity to dispose of these cases. This position is based not just on the length of time these cases have remained in warrant status (more than 15 years), but also on the opportunity afforded law enforcement and municipal prosecutors in recent months to help move these cases; this after being provided specifics regarding the cases eligible for dismissal.

<u>RECOMMENDATION 1</u>	Unresolved municipal court matters with open warrants for failure to appear that were initiated prior to 2003 should be dismissed.
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The issue presented to the panel by the Court was discrete: “why older, minor municipal court complaints pending for more than 15 years should not be dismissed.” Upon reviewing the written comments submitted, and hearing oral presentations, the panel is persuaded that dismissal is

appropriate.⁴ The panel recommends that the dismissal be handled centrally by the Administrative Office of the Courts.

The panel shares the concerns expressed by the Court: that the “old outstanding complaints and open warrants in minor matters raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency.” Many organizations that provided public comments agreed, providing real-life testimonials from their respective areas of practice and expertise as to the impact of these open municipal matters. Comments supportive of dismissal were likewise made in submissions that disagreed with the proposed execution of the policy proposed by the Court.

The panel has also considered the proposals from the Borough of Collingswood and the NJSBA to expand the pool of offenses exempt from dismissal. (Appendix B, pp. 6-7, 12-13). Collingswood proposed the addition of N.J.S.A. 39:4-130, failure to report an accident, and N.J.S.A. 39:3-17, touring privileges of non-resident chauffeurs or drivers, to the list of matters exempt from dismissal. Id. at. 6-7. The panel believes that the concerns expressed by Collingswood are addressed by the Court’s determination that the following matters will not be dismissed—N.J.S.A. 39:4-129(a), (b), leaving the scene of an accident resulting in personal injury or property damage, and N.J.S.A. 39:3-10, driving without a license, respectively. These charges are similar but more serious than the charges suggested by Collingswood. Additionally, the panel is persuaded by the Court’s decision to exclude from its ineligible for dismissal list N.J.S.A. 39:3-29, failure to exhibit license/registration, a more obvious corollary to N.J.S.A. 39:3-17.

The panel notes that the list of excluded offenses was developed by the Court with input from experienced Municipal Presiding Judges. The panel is confident that the Court’s order captures serious offenses that should not be eligible for dismissal, and that the list as written should not be modified for any upcoming dismissal. However, in Recommendation 2, the panel will refer the NJSBA’s proposed calculus for exclusion to the Municipal Court Practice Committee for development.

In regard to the comment received in opposition to dismissal, the panel is not persuaded by the objections raised by the Borough of Audubon. There is no deterrence from unlawful conduct that can be gained by maintaining matters and their corresponding bench warrants that are older than 15 years old. With the passage of time, the penalties for the failure to appear begin to far exceed the penalty for the offense. When coupled with the unlikelihood of success in the event of a prosecution, the punitive nature of the ongoing bench warrant and license suspension simply cannot be justified. At some point, the timeline for consequences relating to an unheard minor offense must expire, and it is the panel’s belief that the Court has identified an appropriate expiration date of 15 years following initiation of a charge. The only message this dismissal provides to the public is one of fairness.

⁴ The discrete nature of this issue requires that the panel reject the proposal of Mr. Hoffman at this juncture. The authority of the panel extends only to the issue of the appropriateness of the dismissal of complaints pending for more than 15 years. The proposal of Mr. Hoffman, summarized above and captured in full in the appendix to this report, moves well beyond this issue.

Audubon additionally posited that there was no benefit to the Borough in particular to dismiss eligible matters, as they continue to monitor the cases and enforce penalties as violators come forward, and dismissal would result in the erosion of trust for the Borough for those defendants that have recently come forward. The Borough additionally requested that municipalities be given the option to opt out of the procedure and to demonstrate that they are continuing to enforce open matters. The panel is again unpersuaded.

Other than representation of counsel, Audubon provided no evidence of their enforcement of eligible matters. From the 2003 filing date of the impacted complaints to now, there is no evidence of any affirmative, dispositive enforcement action taken by the municipality. This failure to prosecute, which at this juncture has likely become an inability to prosecute, must yield to fairness.

The significant gesture of dismissing these older, minor offenses will only bolster public trust in the integrity and fairness of the judicial system. It is in this pursuit of fairness that Audubon's proposed opt-in system must also be rejected. Court users across the state must be treated the same, regardless of where their matter originates.

RECOMMENDATION 2

A process for the annual dismissal of open municipal court matters that are more than 15 years old should be developed.

A number of submissions requested that consideration be given to continuing the dismissal of older, minor municipal court complaints on an annual basis. The panel is in agreement with these proposals, and finds that the reasons weighing in favor of dismissal will remain true for the foreseeable future. The panel thus proposes that going forward, open matters that are more than 15 years old be dismissed on an annual basis, and that this process be captured in a court rule developed by the Municipal Court Practice Committee. There is already in existence a template for automatic dismissal of parking matters in R. 7:8-9. The development of a court rule through the usual means would provide a transparent process for full discussion and development of a protocol with appropriate stakeholders.

The panel recommends that the Municipal Court Practice Committee be urged to consider the following in the development of any court rule:

- The establishment of a definite dismissal date for eligible matters, on notice to the municipal prosecutor; and
- The broad categories of cases that should be excluded from dismissal. The rule should also specify that the Administrative Director issue a Directive identifying the exact offenses to be excluded.

Additionally, the panel believes that the focus of any proposed dismissal rule should be expanded to also include cases where a license suspension was ordered due to the person's failure to appear. Such an expansion will cover those scenarios where the judge chose to not issue a bench warrant, but instead opted to go the route of a license suspension. Consistent with the position taken by the

Supreme Court Committee on Municipal Court Operations, Fines, and Fees, the panel believes that license suspensions pose many of the same hardships as outstanding warrants.

Finally, a number of organizations, in addition to voicing their approval for dismissal, suggested that the dismissal of offenses older than ten years old, or perhaps less, be considered, and that the types of matters eligible for dismissal also be expanded to include all traffic offenses, petty disorderly persons offenses, disorderly persons offenses, and more serious offenses. (Appendix B, p.2).

The panel believes that both issues are worthy of further consideration and review. The panel respectfully requests that they together be referred to the Municipal Court Practice Committee for a full discussion of the merits of each proposal with members of the bench and bar during the development of the proposed court rule.

Conclusion

Upon careful review and consideration of the comments made both in writing and during the hearings, the panel shares the Court's concern that old outstanding complaints and open warrants in minor matters raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency.

The recommendations developed by the panel—to dismiss the matters identified in the Court's July 19, 2018 order and to develop a protocol for the annual dismissal of similarly aged, minor matters—have been developed in acknowledgment of these concerns and the demands of justice. The panel thanks the Court for the opportunity to assist in the ongoing pursuit of fairness in our municipal courts.

Cc: Hon. Glenn A. Grant, J.A.D., Acting Administrative Director
Heather Joy Baker, Clerk of the Supreme Court

APPENDIX A

Date	Document	Page Numbers
10-02-18	Notice to the Bar In the Matter of the Dismissal of Unresolved Municipal Court Cases That Involve Certain Minor Offenses That Are More Than 15 Years Old	1 – 2
10-01-18	Administrative Order 01-2018 PAS-L-3211-18 together with Exhibit A July 19, 2018 Supreme Court Order	3 – 10

NOTICE TO THE BAR

IN THE MATTER OF THE DISMISSAL OF UNRESOLVED MUNICIPAL COURT CASES THAT INVOLVE CERTAIN MINOR OFFENSES THAT ARE MORE THAN 15 YEARS OLD

On July 19, 2018, the Supreme Court issued an Order appointing Assignment Judges Ronald Bookbinder, Ernest Caposela, and Yolanda Ciccone to serve as a three-judge panel and conduct a series of hearings in the northern, central and southern part of the State as to why older, minor municipal court complaints pending for more than fifteen years should not be dismissed. Pursuant to the attached October 1, 2018 Administrative Order issued by the Acting Administrative Director of the Courts and docketed under PAS-L-3211-18, the three regional hearings will take place before the three-judge panel on the following dates, with locations and times indicated below:

October 22, 2018 Essex County Veterans Courthouse
10:00 a.m. 50 West Market Street
Courtroom 1114 – 11th Floor
Newark, NJ 07102

October 23, 2018 Somerset County Courthouse
10:00 a.m. 20 North Bridge St
Courtroom 301
Somerville, NJ 08876

October 24, 2018 Burlington County Olde Courthouse
10:00 a.m. 120 High Street
Courtroom 1
Mount Holly, NJ 08057

The issue to be considered at these hearings will be why older, minor municipal court complaints pending for more than fifteen years should not be dismissed. Anyone who wishes to speak at one of the hearing sessions must by **October 15, 2018** submit that request in writing as well as written comments related to the issue to be presented.

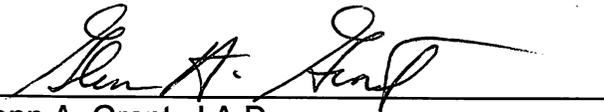
Attorneys submitting written comments and a request to speak before the panel should do so through eCourts Civil as a filing under docket number PAS-L-3211-18. The written comments and requests to speak should be filed in eCourts Civil under the "Miscellaneous Document" category as "General Correspondence." Instructions on how to submit a filing through eCourts can be found at <https://www.njcourts.gov/attorneys/ecourtstraining.html> or by contacting the Judiciary's help desk at 609-421-6100.

Members of the public submitting a request to speak and written comments should mail their documents to the following address:

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St., First Floor
Paterson, NJ 07505

Attn: Cecilia Nardone, CSSII

Further details regarding the hearings and instructions on the submission process for written comments and requests to speak are contained in the appended Administrative Order. Questions may be directed to Steven A. Somogyi, Assistant Director, Municipal Court Services at 609-815-2900 ext. 54850.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: October 2, 2018

IN THE MATTER OF THE DISMISSAL OF
UNRESOLVED MUNICIPAL COURT CASES
THAT INVOLVE CERTAIN MINOR OFFENSES
THAT ARE MORE THAN 15 YEARS OLD

Administrative Order 01-2018

ADMINISTRATIVE ORDER

PAS-L-3211-18

To: The public and various interested organizations, including the Municipal Prosecutor's Association, League of Municipalities, all affected municipalities, Attorney General, County Prosecutors, Public Defender, New Jersey State Association of Chiefs of Police, New Jersey State Bar Association, Association of Criminal Defense Lawyers, and American Civil Liberties Union

This Administrative Order is issued by the Acting Administrative Director of the Courts in the performance of his administrative responsibilities to carry out the mandates of the Supreme Court's Order of July 19, 2018 (Exhibit A), regarding hearings to consider the dismissal of unresolved Municipal Court cases that involve certain minor offenses which are more than 15 years old, and have open bench warrants for a failure to appear attached to them.

The Supreme Court has appointed a three-judge panel consisting of Assignment Judges Ronald Bookbinder, Ernest Caposela, and Yolanda Ciccone, (the "panel") to conduct a series of hearings. The Supreme Court additionally required that at least 60 days prior to any scheduled hearing, the panel was to distribute to each municipality a list of cases that fall within the scope of the Court's July 19, 2018 order ("dismissal reports"). Dismissal reports identifying eligible cases were distributed to each municipality by August 20, 2018.

The following procedures are ordered to implement the hearing process directed

by the Supreme Court:

1. Three regional hearings will take place before the panel on the following dates, with locations and times indicated below:

October 22, 2018 Essex County Veterans Courthouse
10:00 a.m. 50 West Market Street
Courtroom 1114 – 11th Floor
Newark, NJ 07102

October 23, 2018 Somerset County Courthouse
10:00 a.m. 20 North Bridge St
Courtroom 301
Somerville, NJ 08876

October 24, 2018 Burlington County Olde Courthouse
10:00 a.m. 120 High Street
Courtroom 1
Mount Holly, NJ 08057

2. The only issue that will be considered at these hearings will be **why older, minor municipal court complaints pending for more than fifteen years should or should not be dismissed**. Challenges to individual cases will not be considered at these hearings.

3. Each hearing date will have a morning and an afternoon session.

4. The afternoon session of each hearing will be to solicit comments from representatives of the affected municipalities, including, but not limited to, mayors, attorneys for the municipality (“municipal attorney”), and municipal prosecutors.

5. The morning session of each hearing will be to solicit comments from all others who wish to speak, including, but not limited to, members of the public and public interest groups.

6. Anyone who wishes to speak at a hearing session must submit a) a request to speak, **and** b) written comments related to the issue of why older, minor municipal court complaints pending for more than fifteen years should or should not be

dismissed. There will be no filing fees assessed for the request to speak or the written comments.

7. Each speaker's oral presentation will be limited to five minutes.

How to Submit a Request to Speak

8. The request to speak must identify the individual who seeks to speak, whether that individual is an attorney, whether the speaker will be representing an organization, and at which hearing (date, location, and morning or afternoon session) the speaker requests to appear.

9. The request to speak must reference docket number PAS-L-3211-18 and be submitted by **October 15, 2018** to the following address:

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St., First Floor
Paterson, NJ 07505

Attn: Cecilia Nardone, CSSII

How to Submit Written Comments

10. Written comments may only relate to the issue of why older, minor municipal court complaints pending for more than fifteen years should or should not be dismissed, and may not exceed five pages.

11. Written comments must include the author's name and address, and are subject to public disclosure upon receipt. The panel will not consider written comments that are submitted anonymously.

12. Written comments must reference docket number PAS-L-3211-18 and be submitted by **October 15, 2018** to the following address:

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St., First Floor

Paterson, NJ 07505

Attn: Municipal Dismissal Public Hearings

13. A request to speak may be submitted with written comments. However, there is no requirement to speak at a hearing if written comments are submitted.

AFTER HEARINGS

14. At the conclusion of the hearings, the panel shall issue a report to the Supreme Court. The report shall include a recommendation for the general disposition of older, pending, minor municipal court matters, and, if appropriate, a recommended process and timeframe to raise challenges to the dismissal of individual complaints against specific defendants.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of
the Courts

Date: October 1, 2018

Exhibit A

SUPREME COURT OF NEW JERSEY

On July 17, 2018, the Court released a report prepared by the Supreme Court Committee on Municipal Court Operations, Fines, and Fees. The report included a recommendation to develop a process for the dismissal of old complaints, taking into account the seriousness of the offense charged, the age of the case, and other relevant factors.

According to the Administrative Office of the Courts, there are hundreds of thousands of open, unresolved cases that involve minor municipal offenses more than a decade old. For the period before 2003, for example, there are 787,764 open warrants for failure to appear in cases that involve parking violations, motor vehicle offenses (such as going through a stop sign, improper passing, general motor vehicle equipment violations, certain speeding offenses, and running a red light), local ordinance violations, fish and game violations, penalty enforcement actions, and related matters. The vast majority of those cases are from 1986 to 2003. Some are even older. 355,619 of those matters involve parking tickets; 348,631 relate to tickets for moving violations.

The above cases from prior to 2003 do not include more serious matters, namely:

- (1) Indictable charges
- (2) Disorderly persons charges
- (3) Petty disorderly persons charges
- (4) The following motor vehicle charges:

N.J.S.A. 39:3-10
N.J.S.A. 39:3-10.13

Driving without a license
Operating a commercial vehicle while
intoxicated

N.J.S.A. 39:3-10.24	Refusal to submit to a breath test while operating a commercial vehicle
N.J.S.A. 39:3-10.18(b)	Operating a commercial vehicle while commercial license suspended or revoked
N.J.S.A. 39:3-40	Driving while license suspended or revoked
N.J.S.A. 39:4-49.1	Drugs in a motor vehicle
N.J.S.A. 39:4-50	Driving while intoxicated
N.J.S.A. 39:4-50.4a	Refusal to submit to a chemical test
N.J.S.A. 39:4-50.14	Underage driving while intoxicated
N.J.S.A. 39:4-50.19	Failure to install an interlock device
N.J.S.A. 39:4-96	Reckless driving
N.J.S.A. 39:4-98	Speeding (in excess of 35 mph over the posted speed limit)
N.J.S.A. 39:4-128.1	Passing a stopped school bus
N.J.S.A. 39:4-129(a), (b)	Leaving the scene of an accident resulting in personal injury or property damage
N.J.S.A. 39:6B-2	Driving without insurance
N.J.S.A. 12:7-46	Boating while intoxicated

(5) or cases associated with a matter in any of the above categories.

Those old outstanding complaints and open warrants in minor matters raise questions of fairness, the appropriate use of limited public resources by law enforcement and the courts, the ability of the State to prosecute cases successfully in light of how long matters have been pending and the availability of witnesses, and administrative efficiency.

To determine the appropriate way to address older, pending municipal court complaints that involve minor matters, it is ORDERED as follows:

1. The Court appoints the Honorable Ronald Bookbinder, Ernest Caposela, and Yolanda Ciccone, Assignment Judges of the Superior Court, to serve as a three-judge panel and conduct a series of hearings in the northern, central, and southern part of the

State as to why older, minor municipal court complaints pending for more than fifteen years should not be dismissed.

2. Notice of the hearing dates should be provided to the public and various interested organizations, including the Municipal Prosecutors Association, League of Municipalities, all affected municipalities (see paragraph 3), Attorney General, County Prosecutors, Public Defender, New Jersey State Association of Chiefs of Police, New Jersey State Bar Association, Association of Criminal Defense Lawyers, and American Civil Liberties Union.

3. At least sixty (60) days before the hearing dates, the panel, with the assistance of the Administrative Office of the Courts, shall make available to each municipality a list of cases described above for their municipality.

4. In advance of any hearing, interested parties shall submit in writing their position as to the dismissal of older, pending, minor municipal court matters.

5. At the conclusion of all of the hearings, the panel shall issue a report to the Supreme Court. The report shall include a recommendation for the general disposition of older, pending, minor municipal court matters, and, if appropriate, a recommended process and timeframe to raise challenges to the dismissal of individual complaints against specific defendants.

For the Court,



Chief Justice

Date: July 19, 2018

APPENDIX B

COMMENTS RECEIVED ON IN RE IN THE MATTER OF THE DISMISSAL OF UNRESOLVED MUNICIPAL COURT CASES THAT INVOLVE CERTAIN MINOR OFFENSES THAT ARE MORE THAN 15 YEARS OLD

Date of Comment	Name of Commenter (including law firm or other affiliation)	Page Numbers
10-15-18 letter and request to speak	American Civil Liberties Union Foundation New Jersey , by Alexander Shalom, Senior Supervising Attorney on behalf of the Civil Rights Groups (American Civil Liberties Union of New Jersey (ACLU-NJ); the Drug Policy Alliance (DPA); the Latino Action Network, New Jersey (LAN-NJ); the National Association for the Advancement of Colored People, New Jersey State Conference (NAACP-NJ); and the New Jersey Institute for Social Justice (NJISJ))	1 – 3
10-12-18 letter	Borough of Audubon , by Salvatore J. Siciliano, Esquire, Solicitor	4 – 5
10-15-18 letter	Borough of Collingswood , by Joseph M. Nardi, III, Esquire, Collingswood Counsel	6 – 7
10-15-18 letter	Camden Coalition of Healthcare Providers , by Kathleen Noonan, Chief Executive Officer	8
10-04-18 letter	The Hoffman Centers, P.C. , by Michael A. Hoffman, Esquire	9 – 11
10-15-18 letter	New Jersey State Bar Association , by John E. Keefe, Jr., Esquire, President	12 – 13
10-15-18 letter	New Jersey State Municipal Prosecutors Association , by Annette DePalma, Esquire, President	14
10-15-18 letter and request to speak	Seton Hall University School of Law, Center for Social Justice , by Lori Outzs Borgen, Esquire, Associate Director, Center for Social Justice	15 – 18
10-15-18 letter and request to speak	Volunteer Lawyers for Justice , by Jessica Kitson, Managing Attorney	19 – 21
10-14-18 letter	Volunteers of America Delaware Valley , by Patricia McKernan, DSW, LSW, Chief Operating Officer	22 - 25



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ALEXANDER SHALOM
Senior Supervising Attorney

973-854-1714
ashalom@aclu-nj.org

October 15, 2018

Hon. Ronald Bookbinder, A.J.S.C.,
Hon. Ernest Caposela, A.J.S.C. and
Hon. Yolanda Ciccone, A.J.S.C.

In The Matter Of The Dismissal Of Unresolved Municipal Court Cases That Involve Certain Minor Offenses That Are More Than 15 Years Old, Docket No. PAS-L-3211-18

Dear Judges Bookbinder, Caposela and Ciccone:

I write on behalf of the American Civil Liberties Union of New Jersey (ACLU-NJ); the Drug Policy Alliance (DPA); the Latino Action Network, New Jersey (LAN-NJ); the National Association for the Advancement of Colored People, New Jersey State Conference (NAACP-NJ); and the New Jersey Institute for Social Justice (NJISJ) (collectively, Civil Rights Groups). The Civil Rights Groups have a significant interest in ensuring a fair criminal justice process. Each organization has invested resources to ensure that the criminal justice system treats all participants fairly, regardless of race, ethnicity or economic status.

We write to provide our enthusiastic support for the proposed omnibus order dismissing failure to appear warrants related to minor traffic matters in municipal court that are more than 15 years old. The Civil Rights Groups are thrilled with the proposed order. Warrants of that age serve almost no public safety purpose, are extremely costly to administer, and can lead to unnecessary and significant contacts with law enforcement and immigration authorities.

We are painfully aware of the harms warrants can create and the ways in which excessive use of warrants can undermine trust in the criminal justice system. The role warrants played in the erosion of confidence in the court system in Ferguson, Missouri was well explained by the Civil Rights Division of the Department of Justice's Investigation of the Ferguson Police Department:

the court imposes severe penalties when a defendant fails to meet court requirements, including added fines and fees and arrest warrants that are unnecessary and run counter to public safety. These practices both reflect and reinforce an approach to law enforcement in Ferguson that violates the Constitution and undermines police legitimacy and community trust.

[*Investigation of the Ferguson Police Department*, March 4, 2015, p. 42.]

Warrants issued more than fifteen years ago for minor traffic violations no longer promote public safety, but they do guarantee that certain New Jerseyans will feel vulnerable when interacting with law enforcement and may be reluctant to come forward as victims or witnesses. That reluctance and fear undermines public safety.

Although we understand the magnitude of the order (787,764 warrants is no trivial number), we would be remiss if we did not indicate that we hope the order is the first among several. As time passes, the Civil Rights Groups hope the Judiciary will consider dismissing warrants that are not quite as old and those that address slightly more serious offenses (including, at least, all traffic matters and petty disorderly persons and disorderly persons offenses). We note that the Supreme Court Committee of Municipal Court Operations, Fines and Fees explained that “[t]here are 2.5 million outstanding municipal court bench warrants for failure to appear and failure to pay.” *Report of the Supreme Court Committee of Municipal Court Operations, Fines and Fees*, at 2. While we recognize that more serious matters have more of a public safety concern, we believe that the purposes that animate the proposed order will also be served by subsequent, broader orders.

The omnibus order is a significant step forward in the cause of both justice and common sense. We commend the Judiciary’s actions and urge the panel to dismiss the warrants as proposed.

Sincerely yours,



Alexander Shalom
Senior Supervising Attorney
on behalf of the Civil Rights Groups



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October 15, 2018

Hon. Ronald Bookbinder, A.J.S.C.,
Hon. Ernest Caposela, A.J.S.C. and
Hon. Yolanda Ciccone, A.J.S.C.

In The Matter Of The Dismissal Of Unresolved Municipal Court Cases That Involve Certain Minor Offenses That Are More Than 15 Years Old, Docket No. PAS-L-3211-18

Dear Judges Bookbinder, Caposela and Ciccone:

I write to request to speak at one of the scheduled hearings in the above-captioned matter. If permitted, I will speak on behalf of the American Civil Liberties Union of New Jersey (ACLU-NJ); the Drug Policy Alliance (DPA); the Latino Action Network, New Jersey (LAN-NJ); the National Association for the Advancement of Colored People, New Jersey State Conference (NAACP-NJ); and the New Jersey Institute for Social Justice (NJISJ) (collectively, Civil Rights Groups).

It is my preference to speak on October 22, 2018, in Essex County. However, I am scheduled to present oral argument before the New Jersey Supreme Court that day at 10:00 a.m. in *State v. Ibnmauric Anthony* (A-11-17). If it is possible to speak in the afternoon of October 22, that would be ideal; if not, I would like to speak on October 23, in Somerset County.

Should you have any questions, I can be reached at 973-854-1714 or ashalom@aclu-nj.org.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ashalom", written over a horizontal line.

Alexander Shalom
Senior Supervising Attorney
on behalf of the Civil Rights Groups



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Paralegal:

TIFFANY S. SESSA

Waterworks Building
359 96th Street
Suite 203
Stone Harbor, NJ 0824

October 12, 2018

Via Ecourts only

Cecilia Nardone, CSSII
Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton Street, First Floor
Paterson, New Jersey 07505

Re: Hearings Concerning the Dismissal of Older, Minor Municipal Court Cases
Docket#: PAS-L-3211-18

Dear Ms. Nardone:

Please accept this letter regarding the above referenced matter. Our office represents the Borough of Audubon as the Borough's Solicitor.

I, Salvatore J. Siciliano, Esquire, am requesting to appear at the afternoon session for the October 24, 2018 hearing at the Burlington County Olde Courthouse to speak on behalf of the Borough of Audubon.

It is the Borough's position that the order to consider older, minor cases identified for dismissal is unnecessary. First, there is great concern surrounding the message dismissal of these cases will send to the residents of New Jersey and the Borough of Audubon. Essentially, violators will be given a free pass simply because they have waited to hold themselves accountable for these offenses. Naturally, this sets a dangerous precedent for violators of minor offenses.

Second, the Borough has indicated it has a system to track the older, outstanding cases pending in its municipal docket and report them to the Motor Vehicle Commission. Thus, it will receive no meaningful benefit of the older cases are dismissed. While the Borough appreciates the State's interest in improving judicial economy, the Borough does not have a pressing need for

SICILIANO & ASSOCIATES
LLC

Cecilia Nardone
October 12, 2018
Page 2

the same. Rather, the Borough can continue to monitor these cases and enforce penalties as violators come forward.

An additional concern expressed by the Borough is the effect the dismissal will have on violators who have recently come forward to resolve their older cases. While they may have no legal recourse against the municipality, the perception and trust of the Borough may be eroded. It seems inherently unfair to punish those who have done the right thing and satisfied their financial obligations, while those who continue to skirt the system do not suffer any consequences.

If given an opportunity to appear and speak before the panel, I will of course elaborate upon the Borough's position and will be happy to answer all questions the panel poses.

If you have any questions or concerns, please do not hesitate to contact us.

In closing, I remain,

Very truly yours,

SICILIANO & ASSOCIATES, LLC

By: *Salvatore J. Siciliano*
Salvatore J. Siciliano, Esquire
SJS/MJH

cc: Mayor Ward, (*via electronic mail only*)
Commissioner Lee, (*via electronic mail only*)
Commissioner Jakubowski, (*via electronic mail only*)
Jean Phillips, Municipal Court Administrator (*via electronic mail only*)
Dave Taraschi, Borough Administrator (*via electronic mail only*)
Bonnie L. Taft, Borough Clerk (*via electronic mail only*)
file

SICILIANO & ASSOCIATES
LLC

BROWN & CONNER, LLP

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Joseph M. Nardi, III, Esquire
jnardi@brownconnery.com

October 15, 2018

VIA ELECTRONIC FILING

Cecilia Nardone, CSSII
Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton Street, First Floor
Paterson, NJ 07505

**Re: Borough of Collingswood; In the Matter of the Dismissal of Unresolved
Municipal Court Cases; Docket PAS-L-3211-18**

Dear Ms. Nardone:

Our office serves as counsel to the Borough of Collingswood (“Collingswood”). Please accept this correspondence as Collingswood’s response and comments, in connection with the Court’s October 1, 2018 Administrative Order (“Administrative Order”).

Collingswood has eighty-one (81) municipal court matters involving a variety of offenses, which are more than fifteen (15) years old. Many of these offenses fall under the categories of offenses which the State proposes to dismiss, such as parking violations. Given the minor nature of these offenses and the administrative resources that would be required to prosecute the respective defendants, Collingswood does not contest the State’s initiative to clear these matters from the municipal court dockets.

However, Collingswood is concerned about certain types of cases that are not exempted from dismissal under the Administrative Order. More specifically, Collingswood notes that charges filed pursuant to N.J.S.A. 39:4-130 (Failure to Report an Accident) and N.J.S.A. 39:3-17 (“Touring Privileges of Non-Exempt Drivers”) are not currently exempt from dismissal, unless they are associated with an exempt charge listed in the Administrative Order. Collingswood respectfully submits that these categories of charges should not be dismissed because they involve critical matters of public safety.

Indeed, drivers who are intoxicated, driving with a suspended or no license, or have outstanding warrants for their arrest are more likely to leave the scene of an accident and successfully avoid any interactions with law enforcement. Moreover, the immediate reporting of a motor vehicle accident is essential to ensure that any person injured in the accident receive medical attention and may seek redress against the responsible party. Lastly, there is an inherent

BROWN & CONNERY, LLP

October 15, 2018

Page 2

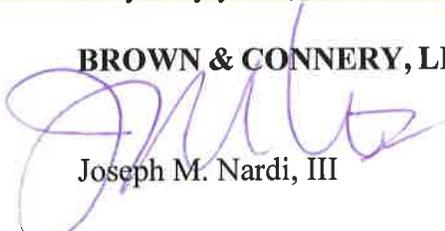
need for all drivers to possess a valid driver's license, so that Collingswood (and other municipalities) can accurately enforce the State's motor vehicle laws and to ensure that motor vehicle operators traveling within Collingswood are properly authorized to do so. Therefore, Collingswood submits that charges filed pursuant to N.J.S.A. 34:4-130 should be included with the more serious charges in the Administrative Order that are exempt from dismissal. For the same reasons, we submit that any violations of N.J.S.A. 39:3-17 raise the same concerns as other charges for serious matters such as N.J.S.A. 39:3-10 and 39:3-40 and should also be included as exempt from dismissal.

Please be advised that we are available upon request to attend the **October 24, 2018 hearing at the Burlington County Olde Courthouse**, on behalf of the Borough of Collingswood. In the event this firm's attendance is not requested, Collingswood shall rely on the comments set forth herein.

Thank you for your time and attention to this matter.

Very truly yours,

BROWN & CONNERY, LLP


Joseph M. Nardi, III

JMN/ck

cc: Chief Kevin Carey, Collingswood Police Department
Deputy Chief Frank Lee, Collingswood Police Department
Carol Staszewski, Court Administrator, Borough of Collingswood



October 15, 2018

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton Street, First Floor
Paterson, NJ 07505

Re: Docket Number PAS-L-11-18

The Honorable Ronald Bookbinder, The Honorable Ernest Caposela and The Honorable Yolanda Ciccone,

Thank you for the opportunity to submit written comments on behalf of the Camden Coalition of Healthcare Providers (Camden Coalition) in the matter of the dismissal of unresolved municipal court cases that involve certain minor offenses that are more than fifteen years old (Docket Number PAS-L-11-18). The Camden Coalition is a collaborative effort of diverse healthcare stakeholders committed to local, community-based and data-driven innovation to improve quality and access to the healthcare delivery system. Our focus is on people experiencing complex health and social needs, the five percent who represent 50 percent of healthcare costs nationwide.

In many cases, legal issues become barriers to better health. To address this concern, the Camden Coalition has partnered with Rutgers Law School to pilot a Medical-Legal Partnership (MLP). When participants in our intervention encounter legal issues, our care team works closely with a consulting lawyer to assess their legal needs and provide legal guidance to help navigate around complex issues. When necessary, the lawyer accompanies the care team to meet with patients and directly provides them legal services.

Through this work, we have seen firsthand the impact that old warrants and accompanying fines and fees have on our patient population. Because our patients are already experiencing medical and social complexities, an old warrant and/or a nominal fine has a disproportionate impact on our patients' lives. It often exacerbates a situation and can undermine someone's progress towards stabilization. Old warrants create a vicious cycle for many individuals where they take one step forward and ten steps back. We support the Judiciary's effort to dismiss fifteen year old warrants for low-level municipal offenses.

We would also urge the Judiciary to consider remedies for old warrants for more serious offenses. Similar to the cases at hand, old warrants for more serious offense also disrupt individuals' lives. We encourage the Judiciary to consider alternative remedies to disposing of these cases.

Thank you for the opportunity to submit testimony. We welcome further discussion with the Judiciary about this issue. Please do not hesitate to contact us for more information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K Noonan", is written over a faint, larger version of the signature.

Kathleen Noonan
Chief Executive Officer
Camden Coalition of Healthcare Providers



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Michael A. Hoffman, Esq. Founder
 NJ Bar #- 03599-2002

October 4, 2018

Hon. Glenn A. Grant, J.A.D.
 Acting Administrative Director of the Courts
 C/O E-Courts Filing to PAS-L-3211-18

Re: Proposal Dismissing Old Complaints

Dear Judge Grant,

Please accept this as my personal submission for consideration with regard to the motion to dismiss old complaints, as formulated and presented under the above referenced docket number and as postulated and presented to the NJSBA and Assignment Judges previously. I am the Chair-Elect of the Municipal Court Practice Section of the NJSBA, but I indicate that these opinions are my own. In point of fact, when the Municipal Court Practice Section reviewed this proposal previously, the response of the assembled members was unanimous with the exception of one opposing voice. That voice was mine. I raised these same points in the Vicinage 15 Bench/Bar meeting with Assignment Judge Telsey earlier this year.

I simply request that the Court consider consistency in application of concepts and doctrines that already exist to this new application and between the different divisions of the Courts. My simple and direct proposal to the Court is one that I hope is considered reasonable and receptive to the needs of the Court. I believe that a single, one-time cleansing of the docket, while understandably requested here, is arbitrary in its' application and is not a solution to the problem. The dismissal of matters should have a basis in some defined reasoning, other than purely *laches*, with some logic as to the application of the rule.

It is for that reason that I provide the following proposal:

THAT the Administrative Office of the Courts, by and through the auspices of the New Jersey Supreme Court of New Jersey, Order the uniform policy and method of application of the Statutes of Limitation that currently exist, and

FURTHER THAT with regard to municipal court charges, The Court apply the Statute of Limitation as set forth under N.J.S.A. 2C:1-6(b)(1), wherein the State shall have 5 years to prosecute a matter, from the issuance of the summons, subject to revivals every 5 years under the doctrine of *scire facias* and as otherwise limited by the determination of the Court, and

FURTHER THAT the Court consider penalty enforcement on cases venued in the Municipal Courts as "judgment" enforcement by that Court, and apply the 20-year statute of limitations on enforcement of judgments (Under N.J.S.A. 2A:14-5), subject to revival under the doctrine of *scire facias*, in a similar way and manner to the methodology discussed in Adamar v. Mason, 399 NJ Super 63 (App Div 2008), and

FURTHER THAT the above Statute of Limitations SHALL be subject to presumed automatic revivals, absent application to the contrary or further Order of the Court, with regard to the limited types of cases enumerated by the Court (ex - 3:40, 4:50), and

FURTHER THAT any charge not automatically revived, nor revived by application, may be considered dismissed and removed from the docket, and any penalty/judgment, not

automatically revived, nor revived by application, may be considered administratively dismissed and removed from the docket.

The proposed action by the Court for comment here effectively imposes an arbitrary 15-year Statute of Limitations (without any specific stated reason for THAT length of time) and only seeks to imposes it once. I am merely suggesting that the Court, administratively and practically, utilize the tools already at its' disposal to obtain the same or similar result it seeks. Rule 2A:14-5 provides for the Statute of Limitations for different types of cases, and there is significant caselaw developed about what would toll that period. While there is, generally, a 6-year limitation on most civil matters, once filed, if they are unserved, as similar to cases in FTA or warrant status, they are subject to dismissal with automatic restoration within a year, and then restoration by motion after that period. As a matter of equity, those applications are normally given significant scrutiny by the Court, and are dealt with on a case-by-case basis. Upon the entry of judgment, there is a 20-year period under which a judgment may be collected through the courts. After that timeframe, the Court maintains no record of the case, except, potentially for some basic docket information. That is a method and procedure the Court created to cleanse the docket at and through timeframes.

The application to revive by motion is discussed in the Adamar case above (and it was related to the Kronstat v. Kronstat, 238 NJ SUPER 614 (App Div 1990) before that) where the general rules of application allow revival where:

- 1) The judgment is unpaid, valid and subsisting,
- 2) The application for revival is made prior to the passage of the Statute of Limitations and,
- 3) That there is no judicial impediment to enforcement of the Judgment.

There exists, in those cases, definitions of judicial impediments, like the time it takes for appeal, the time it takes while a bankruptcy stay is in place, or other judicial action which might limit the enforcement. That logic can, and should apply here.

My proposal above allows for many more matters to be administratively cleared off the Court's docket at specified intervals, will eliminate the need for this type of application in the future, and presents alternatives in individual cases where justice would be best served by the proposed application to an individual matter. My proposal allows for the public policy concern that the listed charges and certain fines, through presumptive revivals, are maintained for a significant period time. While a legitimate point for discussion, I would suggest that charges may be presumptively revived multiple times at the Court's discretion, the caselaw with regard to motions limits enforcement of those judgments to one revival. Generally, with knowledge of basic ages of offenders and average lifespans, I couldn't support, as a matter of public policy, in any matter, imposition of a municipal court penalty on ANYONE that stays with them for more than 40 years, in any type of matter.

In effect, my proposal suggests that a different standard is applied pre and post-judgment cases in municipal court, as exists in the high volume SC and DC docket types. Before judgment, on basic Municipal Court charges (speeding, traffic, parking, fish/wildlife, etc), subject to application within the 5 year period, they are not automatically renewed, and may be dismissed after 5 years. This would mean 10 years MORE stale cases come off the docket than proposed above. Before judgment on the enumerated charges (4:50, 3:40, 6B-2, et al.), the cases would remain active as presumptively revived every 5 years. Post-Judgment on basic charges, subject to a grace period now, the Court may dismiss the penalties on cases at 20 years. Post-Judgment on the enumerated charges, the cases would be presumptively revived at 20 years for 40 total years of enforcement. I'd recommend, as a practical matter, that matters at 4 years of pre-judgment interval or 19 years of post-judgment interval, be compiled by June of the previous

year for the next year, and forwarded to the municipal prosecutor and the issuing agency/individual, in a list, indicating what action will be taken upon the expiration of 5 or 20 years. They have notice and then can make bulk applications to the Court, with notice (even permit service by publication?) to all parties, regarding their intent, should it be counter to that which would happen automatically by the rules imposed above.

I believe that a significant test/application of the functionality of my proposed system will be in how it would deal with/manage and process Municipal Court Cases under N.J.S.A. 2C:35/36 for marijuana related offenses upon passage of S2703, proposing adult-use regulations. The expungement/mootness of wide swaths of cases from the Court's docket will require procedural and broad changes related to charges and convictions still on the Court's docket. The application to cases over a specific period of time, by and through a statute of limitations, would offer the exact same administrative challenge, and is comparably solved.

I can state, unequivocally, that I have no clients who would benefit either way from the implementation of my proposal, and it is merely a proposal in order to harmonize and normalize the application of rules by and between the Courts of this State. We operate and live under an accepted rule of law. We have expectations for uniform, reasonable and consistent application of those rules and laws. Statutory restrictions on actions are there, already, to help the Court deal with the inundation and difficult administration of fines and fees from significantly attenuated periods of time. The Court's concerns regarding fairness, law enforcement resources, witness availability, and administrative efficiency are well founded, and already provided for by statutes of limitation. The application and enforcement of those statutes, by the Court itself, in a reasonable and reasoned manner, solves the problems, in a much more just and reasonable way than setting an arbitrary line at 15 years.

My opposition to the Court's proposal shouldn't technically be considered an opposition to the proposed policy, but as an opposition to the method and means. The Court has reasonable concerns about those cases languishing in *laches*, as do the defendants, law enforcement and the people at large, in the interests of justice. William Penn is attributed with the quote, "justice delayed is justice denied." As such, uniformity and flexibility are key to obtaining justice here. My only request here, is justice in the justice system. I am more than willing to discuss this matter at any of the public hearings (while I would prefer South Jersey), and I welcome you or anyone involved to contact me to discuss my suggestions.

Respectfully Submitted,



Michael A. Hoffman, Esq.



NEW JERSEY STATE BAR ASSOCIATION

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October 15, 2018

Passaic County New Courthouse
 Civil Division Intake Office
 77 Hamilton Street. First Floor
 Paterson, NJ 07505
 Attn: Cecilia Nardone, CSSII

Re: In the Matter of the Dismissal of Unresolved Municipal Court Cases That Involve
 Certain Minor Offenses That are More Than 15 Years Old
 Docket No. PAS-L-3211-18

Dear Ms. Nardone:

I submit these written comments on behalf of the New Jersey State Bar Association (NJSBA) in response to the Court's October 2, 2018 Notice to the Bar scheduling hearings on the dismissal of certain municipal court complaints pending for more than 15 years. The NJSBA will rely on these written comments and does not wish to speak before the panel.

The NJSBA agrees that warrants relating to non-moving violations, including parking tickets, ordinance violations and fish/game charges that are 15 years or older should be dismissed. Warrants related to moving violations, however, raise additional issues that weigh against automatic dismissal.

Keeping older warrants relating to non-moving violations open for more than 15 years is a drain on court resources and serves no real public purpose. Defendants charged with minor non-moving violations, without more, are not likely to pose a danger to the public. Furthermore, after the passage of such a significant amount of time, the likelihood of being able to successfully prosecute a minor non-moving violation is very small. Defendants may be difficult to locate, police officers may no longer be available, and the memories of witnesses, if any, are faded. Successful convictions are unlikely, and the potential deterrence value and the monetary amount of fines collected will be minimal. Therefore, continued pursuit of these matters will continue to tax the courts system without any real benefit to the fair administration of justice.

Other issues arise in connection with defendants charged with moving violations, however. In those cases, the fair administration of justice may require continued pursuit. Some moving

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violations could have fairly serious ramifications, so it would be important to ensure that, if dismissal is a possibility, only the most minor offenses are subject to dismissal. Improper passing, for example, results in four points assessed to one's license, while equipment failures result in a monetary penalty but no points assessed. Defendants may have other violations that, when coupled with resolution of the older violations, would result in a requirement for attendance at a remedial driver improvement program or in reversing the active status of their driver's license. Dismissing a more serious older violation would simply reward a defendant's behavior in not following through with required court appearances, resulting in more favorable treatment of those defendants that avoid court as compared to those who follow-through with their court appearances. While some of the same prosecutorial difficulties may be present that exist in non-moving violations, there is more likely to be a more comprehensive record in the case of moving violations that will have recorded the purported offensive action at the time it was committed. For these reasons, the NJSBA recommends that moving violations, even if they are open for more than 15 years, not be automatically dismissed.

Thank you for the opportunity to submit these comments. I hope they are helpful in the panel's consideration of the issue.

Very truly yours,



John E. Keefe Jr., Esq.
President

/sab

cc: Evelyn Padin, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director

NEW JERSEY STATE MUNICIPAL PROSECUTORS ASSOCIATION

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Treasurer

October 15, 2018

In the Matter of the Dismissal of Unresolved Municipal Court Cases That
Involve Certain Minor Offenses That Are More Than 15 Years Old
Administrative Order: PAS-L-3211-18

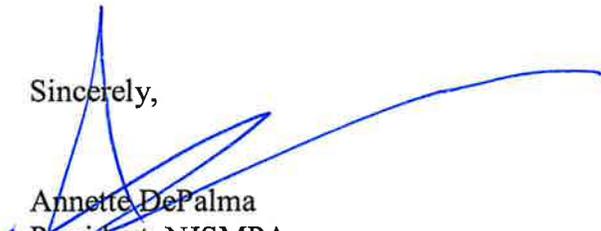
To: Hon. Ronald Bookbinder
Hon. Ernest Caposela
Hon. Yolanda Ciccone

The New Jersey State Municipal Prosecutors Association (NJSMPA) supports the Hon. Glenn A. Grant's Administrative Order effecting the Supreme Court's Order dated July 19, 2018. This action has been the subject of much spirited discussion among our members for several months.

Our Association's initial concerns rested primarily on the disparate consequences faced by defendants who responded timely to summonses and those that failed to, and how those varying outcomes might undermine the fundamentals of justice. But given that this Order includes a narrow range of minor offenses, we are satisfied that a greater public benefit will be realized in dismissing the cases within the parameters of this Order.

The NJSMPA greatly appreciates your soliciting our feedback on this issue, and we welcome being part of all conversations regarding Municipal Court Practice. We will be happy to further comment to the Court on October 22, 2018, at the Essex County Veterans Courthouse at 10:00 a.m.

Sincerely,


Annette DePalma
President, NJSMPA

SETON HALL UNIVERSITY SCHOOL OF LAW
CENTER FOR SOCIAL JUSTICE
833 McCarter Highway
Newark, New Jersey 07102



Lori Outzs Borgen, Esq., Associate Clinical Professor
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(973) 642-8700
Fax (973) 642-8384

October 15, 2018

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St., First Floor
Paterson, NJ 07505

Attn: Cecelia Nardone, CSSII

**In the Matter of the Dismissal of Unresolved Municipal Court Cases that Involve
Certain Minor Offenses that are more than 15 Years Old**

Re: Docket No. PAS-L-3211-18, Comments and Request to Speak

To the Honorable Assignment Judges Ronald Bookbinder, Ernest Caposela, and Yolanda Ciccone:

The Seton Hall Law School Center for Social Justice is home to the Law School's clinical legal services program. We represent low-income individuals in New Jersey on a range of civil legal issues, including family law, immigration, civil rights, and housing, as well as minor criminal matters. Our clients include individuals who are part of the reentry population – men and women who are seeking to move beyond their criminal conviction and incorporate fully into society. With support from the State, we expanded our reentry work over the past year. A significant impediment for our reentry clients is the challenge of addressing old municipal cases that resulted in outstanding warrants and fines. For this reason, we write to express our support for the proposal that minor municipal court complaints pending for more than fifteen years should be dismissed.

We wish to thank the Supreme Court Committee on Municipal Court Operations, Fines, and Fees for its comprehensive and visionary report that recognizes the importance of reform in the municipal system to promote justice. Our current system criminalizes poverty and snares indigent individuals in a cycle of poverty that can lead to recidivism for ex-offenders.

Seton Hall Law School CSJ Comments
Page 2 of 3

We have represented individuals in old municipal cases. In our experience, it is difficult for a prosecutor's office to locate the files and produce the evidence, pursuant to Rule 7:7, used to support the original complaint. For example, in the spring of 2018, my office assisted a client in vacating several old warrants. Doing so involved a substantial amount of time and resources for my office, the municipal clerk, the prosecutor, and the court, with the result that the charge was dismissed because no discovery materials could be produced to prove the case. Where cases have lingered on the books, most likely due to the minor nature of the charges, then dismissal of the charges in a wholesale fashion, as proposed here, is appropriate. Dismissing the old warrants will free up limited administrative resources in municipal courts to handle more current, pressing cases. In addition, limited pro bono legal services can then be used to assist low-income individuals with other matters.

The pending municipal cases typically result in the issuance of warrants, which in turn might lead to driver's license suspension. As my colleagues and I noted in a recent commentary in the *New Jersey Law Journal*, "[f]rom 2007-2012, more than 70 percent of license suspensions were due to non-payment of court fees, traffic fines and insurance surcharges." Lori Outzs Borgen, Jenny-Brooke Condon and Esere Onaodowan, *To End Criminalization of Poverty, NJ Cannot Stop with Bail Reform*, 224 N.J.L.J. 2303 (Aug. 13, 2018).

It is particularly difficult for individuals who are reentering society to find a job if they are not able to drive. The New Jersey Reentry Corporation, an organization focused on helping ex-offenders find good, long-term jobs, recently described the barriers faced by their clients:

[T]he process of obtaining a government issued ID or driver's license poses significant difficulty for the reentering population. Oftentimes, licenses are suspended during incarceration, and significant fines and surcharged are levied against the license post-release. If fine or fees are not paid because of incarceration, the result may be a municipal court date, a bench warrant, or an ongoing license suspension.

A lack of transportation and identification causes many difficulties, including the inability to apply for many jobs, to obtain medical or psychiatric care, and to ensure housing, food stamps, and other requirements for daily living. This legal quagmire of fines and fees ends only in continued unemployment, leaving no method for paying off the fines necessary to escape the cycle.

New Jersey Reentry Corporation, *Reentry: From Prisons to the Streets, Making it Work*, September 2017, at 33-34.

Seton Hall Law School CSJ Comments
Page 3 of 3

The proposal to dismiss old, minor warrants will promote fairness and justice for everyone in New Jersey, but it will have a particularly meaningful impact on individuals with criminal records who are seeking to move forward in their lives, but are confronted with a long list of barriers to successful reentry into society. For these reasons, the Seton Hall Law School Center for Social Justice supports the proposal now under consideration.

Thank you very much for your consideration of these comments.

Very truly yours,

/s/

Lori Outzs Borgen, Esq.
Associate Director, Center for Social Justice

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October 15, 2018

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77 Hamilton St., First Floor
Paterson, NJ 07505

Attn: Cecelia Nardone, CSSII

**In the Matter of the Dismissal of Unresolved Municipal Court Cases that Involve
Certain Minor Offenses that are more than 15 Years Old**

Re: Docket No. PAS-L-3211-18, Request to Speak

Dear Ms. Nardone:

I write to request the opportunity to speak at the hearing scheduled on the above-referenced matter on October 22, 2018, in the Essex County Veterans Courthouse, during the morning session. I am an attorney licensed to practice in New Jersey and I wish to speak on behalf of the Seton Hall Law School Center for Social Justice.

Thank you very much for your consideration of this request.

Very truly yours,

/s/

Lori Outzs Borgen, Esq.
Associate Director, Center for Social Justice



P.O. Box 32040 | Newark, NJ 07102 | Telephone (973) 645-1955 | Fax (973) 645-1954

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St., First Floor
Paterson, NJ 07505

Attn: Municipal Dismissal Public Hearings

Dear Judges Bookbinder, Caposela and Ciccone:

I write this letter on behalf of Volunteer Lawyers for Justice (VLJ) to offer our support for the proposed order that would allow for the dismissal of open municipal court matters for minor offenses that are more than 15 years old.

VLJ is a nonprofit legal services organization based in Newark, NJ. VLJ's mission is to improve the lives of economically disadvantaged and at-risk adults, children, and families in New Jersey by empowering them with the education, tools, advice, and pro bono representation to obtain fair and equal treatment within the legal system.

A significant amount of the work that VLJ does through our Veterans Legal Program and our Reentry Legal Services Program (ReLeSe) involves providing assistance to individuals seeking to expunge their criminal records and/or restore driver's licenses that have been suspended for various reasons. These two issues have been identified as some of the most frequently encountered legal issues for low-income individuals in our region.

Through our work in these areas, we see countless individuals who are struggling due to minor offenses that are more than 15 years old but remain on their record. Our clients often have open warrants for failure to appear in cases that involve parking violations, motor vehicle offenses (such as going through a stop sign, certain speeding offenses, or running a red light), and various local ordinance violations. In some cases, individuals never have another offense, but can't catch up with fines associated with these older minor offenses. Most don't have the guidance or legal representation to understand and navigate open bench warrants on these older minor offenses. Moreover, knowing that these matters remain open causes a considerable amount of stress for our clients, as these records can affect their employment, livelihood, and peace of mind.

We devote hundreds of hours every year to helping these individuals write pro se letters to municipal court judges to have old charges dismissed. At our legal clinics, we meet individuals whose stories highlight the struggles they face because of these open matters. Many of our clients are impacted by physical and mental disabilities, extreme poverty, and even homelessness. Many have kept a clean record since the older minor offense, and have shown their commitment to improving as citizens. Sometimes, their inability to close old matters is the only thing keeping them from moving forward in their lives. In other situations, violations from the past can become a vicious cycle, impeding individuals from supporting themselves and their families by preventing them from securing employment, housing or a driver's license, which is often a prerequisite for jobs and sometimes the only viable way to visit children and family. Allowing individuals a clean slate with which to procure employment and housing also reduces reliance on public benefits.

We commend the Supreme Court Committee on Municipal Court Operations, Fines, and Fees for recommending the development of this process. Warrants for minor offenses that are more than 15 years old should be dismissed, because they do not serve the public interest and are, in fact, a deterrent to full and active citizenship. We believe this is a step in the right direction and an important development for New Jersey's legal system. VLJ strongly urges the panel to accept the proposed order to dismiss these warrants.

Respectfully,



Jessica Kitson
Managing Attorney

Volunteer Lawyers
for Justice
Taking Cases. Changing Lives.

P.O. Box 32040 | Newark, NJ 07102 | Telephone (973) 645-1955 | Fax (973) 645-1954

Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St., First Floor
Paterson, NJ 07505
Attn: Cecilia Nardone, CSSII

RE: PAS-L-3211-18

Dear Ms. Nardone,

I write today to request that an attorney from Volunteer Lawyers for Justice be permitted to speak before the panel considering the proposed omnibus order dismissing failure to appear warrants related to minor traffic matters in municipal court that are more than 15 years old. Rosa Neel is a staff attorney at Volunteer Lawyers for Justice and would be speaking on behalf of the organization. She can be reached at by email at rneel@vljnj.org or by phone at 973.645.1951, ext. 118.

We would prefer to have Ms. Neel speak on October 22, 2018 at the morning session at the Essex County Courthouse. I am also attaching our written comments.

Please let us know if you need any additional information.

Sincerely,



Jessica Kitson
Managing Attorney



Daniel L. Lombardo
President/CEO

Judy Donlen
Board Chairperson

October 14, 2018

Cecilia Nardone, CSSII
Passaic County New Courthouse
Civil Division Intake Office
77 Hamilton St, First Floor
Paterson, NJ 07505

RE: Municipal Court Dismissal Public Hearings

Dear Ms. Nardone,

I am requesting to speak at the Burlington County hearing scheduled for Wednesday, October 24, 2018. These are my written comments.

I am writing on behalf of Volunteers of America Delaware Valley and the individuals we serve. Volunteers of America Delaware Valley provides community-based assistance to individuals so that they can lead self-fulfilled, independent lives. Presently, VOADV operates 54 programs serving over 10,000 persons a year who are experiencing homelessness, seeking permanent housing, struggling with addictive behavior, coping with chronic mental illness, returning to society from the criminal justice system, in need of emergency shelter, are disabled, or struggling with domestic violence. All of the individuals we serve are low-income and most have criminal justice involvement.

The NJ Supreme Court Committee report on Municipal Court Operations, Fines and Fees released in July 2018 made significant recommendations for reform and improvement. The Supreme Court committee, formed by Chief Justice Stuart Rabner in March 2017, was charged with reforming municipal court practices and preserving judicial independence in the state's local courts and deserves accolades for this endeavor.

The report confirms that there are 2.5 million outstanding municipal court bench warrants for failure to appear and failure to pay. According to the report "these warrants often involve minor offenses and minimal amounts and the cost and collateral consequences in the enforcement of these warrants can be devastating to individuals and families." The report expressed profound concern with the excessive imposition of financial obligations on certain defendants and the excessive use of bench warrants and license suspensions as collection mechanisms.

The report included eight guiding principles and 49 recommendations for municipal court reform. The significant Committee recommendations address fair sentencing and the use of sentencing alternatives; procedural safeguards for defendants unable to pay a fine; voluntary compliance with court-ordered appearances and legal financial obligations; improving access to

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the municipal courts through technology; and maintaining the judicial independence of the municipal courts to promote transparency and fairness.

Making ability to pay determinations, allowing defendants to receive credits toward legal financial obligations for hours spent in clinical treatment, and enacting alternatives to driver’s license suspension were among the recommendations of the Committee’s report. The Supreme Court’s report clearly outlines its intention to reduce the reliance on legal penalties especially for indigent defendants. However, the report fails to address the prohibitive cost of a public defender application. Consistent with recommendations from the Brennan Center’s *Criminal Justice Tool Kit*, New Jersey should consider creating and enforcing exemptions for indigence, eliminating collateral consequences related to criminal justice debt, and ending incarceration and the use of arrest warrants for non-willful failure to pay.

Administrative Order PAS-L-3211-18 considers the dismissal of unresolved cases involving minor municipal court offenses more than 15 years old. The NJ Courts reported that there are nearly 800,000 open warrants for failure to appear that could be addressed by this order. The dismissal of these unresolved cases is a significant and needed step in reforming the municipal court and restoring faith in the justice system.

The recognition of legal financial obligations and their negative impact on low-income people involved in the criminal justice system is not new. In 2015, the United States Council on Economic Advisors recognized that during the period of exponential growth in the criminal justice system, policy makers argued taxpayers should not bear the responsibility for increasing costs incurred. In their brief *Fines, Fees, and Bail*, the CEA acknowledged that state and local governments increasingly turned to monetary sanctions; such as fines for infractions, misdemeanors, and felonies as well as court fees, as sources of additional revenue.

New Jersey is no different. Municipal court fines are a significant revenue source for many New Jersey municipalities. My review of New Jersey’s adopted municipal budgets shows local towns, boroughs, and cities earning nearly \$200 million in cash in 2016.

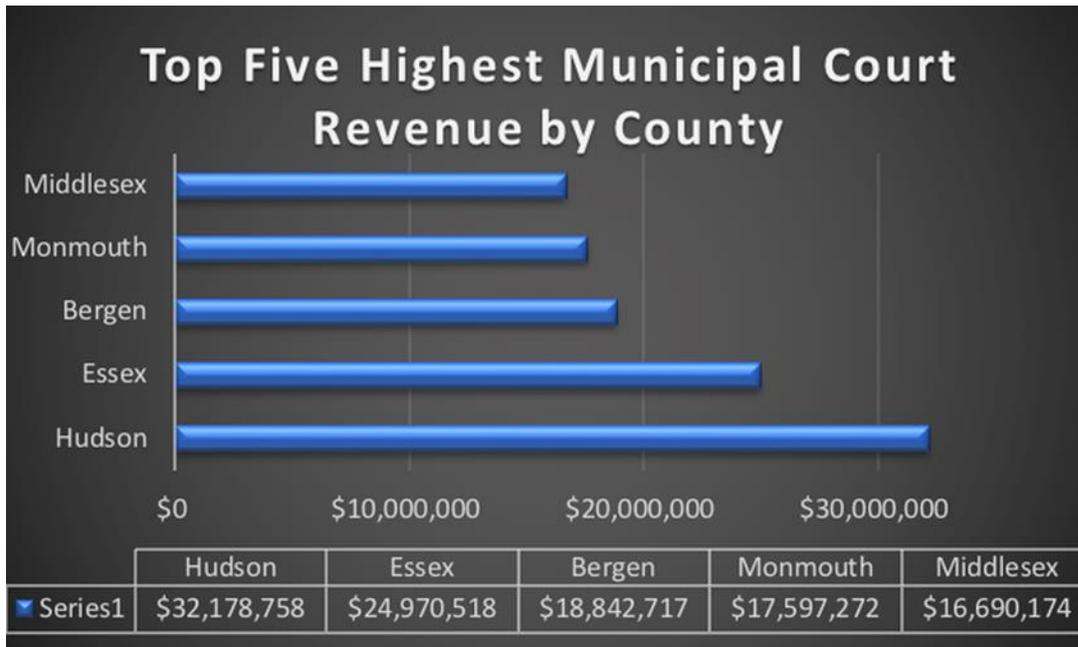
The top ten municipal court revenue generators included:

Municipality	County	Revenue Realized in Cash	Poverty Level	Average Household income
Jersey City	Hudson	\$13,592,007	19.4%	\$60,703
Newark City	Essex	\$10,508,223	29.1%	\$33,025
Hoboken City	Hudson	\$5,184,908	10.5%	\$118,479
Paterson City	Passaic	\$4,594,063	29.1%	\$34,042
Elizabeth City	Union	\$3,916,837	19%	\$43,831
New Brunswick City	Middlesex	\$3,139,431	36%	\$40,428
Union City	Hudson	\$2,666,809	24.3%	\$42,483
East Orange City	Essex	\$2,579,902	20.2%	\$38,403
Camden City	Camden	\$2,570,761	38.4%	\$26,214
Trenton City	Mercer	\$2,501,012	27.6%	\$34,412

Poverty Level and Average Household Income were derived from the United States Census Bureau Retrieved February 2018.

Those municipalities highlighted in red are also among the top 15 poorest cities in New Jersey. These ten (10) municipalities collected more than \$51 million in court fines; representing 26% of all revenue earned by municipal courts across the State. Failure to pay outstanding criminal

justice debt often results with the issuance of arrest warrants. Arrest warrants and incarceration become the apparatus for municipal courts for fine collection. With fines serving as a significant revenue source, the impetus to reform municipal court practices may be difficult.



The CEA’s characterized monetary sanctions like fines and fees as regressive payments that disproportionately impact the poor. As researcher Alexis Harris, et.al noted “legal debt is particularly injurious: unlike the consumer debt, it is not offset by the acquisition of goods or property, is not subject to relief through bankruptcy proceedings, and may trigger an arrest warrant, arrest, or incarceration.”ⁱ Harris therefore recognizes **criminal justice involvement as both consequence and cause of poverty.**

The Brennan Center for Justice discovered that scant information is available about the cost for these collection efforts and suggest that states likely spend more to collect debt than they recoup from debtors.ⁱⁱ What would seem certain is that the crushing financial debt and risk of imprisonment felt by those entrapped in the system exacts a high toll on individuals and their families.

Alexis Harris in her book *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* states “Given the costs of collection, the regular reporting to court required of debtors, the repeated stints in jail for nonpayment or insufficient payment, and the costs of judges, defense attorneys, prosecutors, clerks, bailiffs, court reporters, and others who manage the debtors, it is hard to imagine that the system of LFOs is cost-effective or efficient by any standard.”

It is estimated that 80 to 90% of people charged with charged with felonies are low-income.ⁱⁱⁱ Acknowledging that regressive fines and fees disproportionately harm those without means, the examination of ways to remedy unfair court practices is paramount. Reducing the reliance on fees and fines as significant sources of revenue for public coffers as well as ending the

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entrapment low-income individuals in a cycle of permanent punishment must be explored. Dismissing warrants for low-level offenses and failure to appear cases that are more than 15 years old is the right step for New Jersey who has already demonstrated their leadership in reducing mass incarceration, expanding alternatives to incarceration, and implementing bail reform.

On behalf of Volunteers of America Delaware Valley and the individuals that we are privileged to serve, we urge the courts to support the dismissal of these municipal court complaints.

Sincerely,

Patricia McKernan, DSW, LSW
Chief Operating Officer

ⁱ Harris, A., Evans, H., & Beckett, K. (2010). Drawing blood from stones: legal debt and social inequality in the contemporary United States. *American Journal of Sociology*, 115 (6), 1753-1799. Doi:10.1086/651463

ⁱⁱ Bannon, A., Nagrecha, M., & Diller, R. (2010). Criminal justice debt: A barrier to reentry. New York University School of Law: Brennan Center for Justice, 1-34. Retrieved from:
<http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>

ⁱⁱⁱ American Civil Liberties Union, & Columbia Legal Services. (2014). Modern-day debtor's prisons: The ways court-imposed debts punish people for being poor. Retrieved from: <https://www.aclu.org/news/modern-day-debtors-prisons-report-exposes-how-court-imposed-debts-punish-people-being-poor>.

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY
DOCKET NO.:
A.D. # _____

)
In the Matter of:)
)
Seton Hall Law School) TRANSCRIPT
NJ State Municipal) of
Prosecutors Assoc.) MUNICIPAL COMPLAINTS
American Civil Liberties)
Union)
Volunteer Lawyers for)
Justice)
)

Place: Essex County Veterans Cthse.
50 West Market Street
Newark, NJ 07102

Date: October 22, 2018

BEFORE:

HONORABLE YOLANDA CICCONE, J.S.C.

TRANSCRIPT ORDERED BY:

EDWARD D. WINGREEN III, ESQ., (Superior Court of
New Jersey - Essex Vicinage)

APPEARANCES:

LORI OUTZS BORGEN, ESQ.
Attorney for Seton Hall Law School

ANNETTE DEPALMA, ESQ.
Attorney for NJ State Municipal Prosecutors
Association

ELYLA HUERTAS, ESQ.
Attorney for American Civil Liberties Union

ROSA NEEL, ESQ.
Attorney for Volunteer Lawyers for Justice

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Madelyn Reyes

I N D E X

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1 (Proceeding commenced at 10:08 a.m.)

2 THE COURT: Please be seated everyone.

3 * * * *

4 THE COURT: Good morning everyone. I'm Judge
5 Yolanda Ciccone. This is Judge Earnest Caposela
6 sitting next to me and Judge Ronald Bookbinder sitting
7 on the other side. As of July 9th -- 19th -- excuse me
8 -- the Supreme Court issued an order establishing this
9 three Judge -- this three assignment Judge panel to
10 hold three regional meetings to determine the
11 appropriate way to address older, pending, Municipal
12 Court complaints involving minor matters. This is the
13 first of those hearings.

14 We have solicited written comments and we
15 will hear oral testimony as to why older minor
16 Municipal Court complaints pending for more than 15
17 years should or should not be dismissed. It is worth
18 noting that the challenges to the individual cases will
19 not be considered at this hearing. The impetus for the
20 Court's July order is worthy of discussion. On July
21 17th the Court issued a report prepared by the Supreme
22 Court Committee on Municipal Court operations, fines
23 and fees.

24 These hearings were inspired in part by a
25 recommendation contained in that report to develop a

1 process for the dismissal of old complaints. Taking
2 into account the seriousness of the offense charged,
3 the age of the case, and other relevant matters. The
4 committee's report was open for public comment until
5 September 24th. I highlight this background to make it
6 clear although the report may be heavy in all of our
7 minds this is not the forum for specific commentary on
8 -- on the contents of that report.

9 The issue presented for consideration at this
10 time is why older minor Municipal Court complaints
11 pending for more than 15 years should or should not be
12 dismissed. I will call the speakers up in order of the
13 sign in sheet. Speakers at this hearing have submitted
14 written comments. And, all of those written comments
15 have been reviewed by the panel. Please note that
16 these proceedings are recorded. And when you approach
17 clearly state your name.

18 And, if you are speaking on behalf of an
19 organization or municipality identify the organization
20 and municipality. The oral presentation is limited to
21 five minutes. Before we do that, are there people in
22 the courtroom who are here on their own individual
23 cases? You are sir? Please understand that we would
24 not be undertaking a dismissal of individual cases
25 today. You are welcome to stay but you are free to go

1 also.

2 UNIDENTIFIED MALE: All right.

3 THE COURT: Okay. Thank you. All right. I
4 would call on this time -- at this time Lori Outzs
5 Borgen of the Seton Hall Law School Center for Social
6 Justice.

7 MS. BORGEN: Good morning. Thank you Your
8 Honors. My name is Lori Outzs Borgen. I am here as
9 the associate director of the Center for Social Justice
10 at the Seton Hall Law School Center for Social Justice.
11 I testified on behalf of the center because we are a
12 legal services organization that represents low income
13 individuals in New Jersey. And, the issues raised in
14 the recent report on Municipal Courts are highly
15 critical and they raise issues of fairness and equity
16 in the judicial system.

17 The Center for Social Justice is home to most
18 of the Law School's clinics, including our criminal
19 justice clinic. We are a recognized legal services
20 organization by the Supreme Court of New Jersey and the
21 majority of our work is on behalf of low income
22 residents of New Jersey. For many years the Center for
23 Social Justice has pursued impact litigation and
24 individual cases with the goal of promoting fairness
25 and equal treatment in our criminal justice system.

1 For example, we brought class action
2 litigation to improve the conditions of individuals
3 held at Passaic County Jail. And we represented an
4 individual who was unable to apply for an electrician's
5 license after completing his criminal sentence due to
6 the child support arrears that accumulated while he was
7 incarcerated. With support from the State of New
8 Jersey we expanded our work with the reentry population
9 over the last year. Our clients include individuals
10 who have served terms of incarceration and are seeking
11 to reintegrate into society.

12 As well as individuals who have not been
13 incarcerated for a -- significant time period, but who
14 have criminal records and are struggling to address the
15 collateral consequences of their convictions. Many
16 individuals in the reentry population have outstanding
17 Municipal cases that are impacting their ability to
18 work and care for themselves and their families. In
19 particular, once a warrant is issued in a Municipal
20 case based on an individual's failure to appear in
21 court that warrant is likely to be reported to the
22 Motor Vehicles Commission, thereby resulting in the
23 suspension of an individual's driver's license.

24 Without a valid driver's license it's very
25 difficult to conduct a full job search in New Jersey.

1 The New Jersey Reentry Corporation, an organization
2 that assists ex offenders who are reentering society
3 has noted that driver's license suspensions are a
4 significant burden on individuals trying to begin again
5 and avoid re offending. When individuals can find and
6 keep good jobs and stay connected to family the
7 recidivism rate is reduced. There are many reasons
8 that an individual might not appear in Court to respond
9 to a municipal complaint.

10 Many individuals simply do not have the funds
11 to pay for a fine and don't understand the reason they
12 would need to go to court to address a payment plan.
13 Others can't find child care or take time off work.
14 Others may have moved and failed to receive the
15 complaint or been away during a period of military
16 service -- excuse me -- or incarceration. Many of the
17 proposals in the Supreme Court Committee's report will
18 address such circumstances. By clearing out the old
19 cases with this proposal the Supreme Court will
20 establish a better foundation to implement these new
21 measures.

22 The action proposed by the Supreme Court,
23 dismissing thousands of old complaints and warrants,
24 will provide a significant boost for individuals
25 seeking to reenter society as well as many other poor

1 individuals who are unable to pay the fines they owe to
2 clear their records and regain their driving
3 privileges. For these reasons, the Seton Hall Law
4 School Center for Social Justice believes that older,
5 minor Municipal Court complaints pending for more than
6 15 years should be dismissed. Thank you.

7 THE COURT: Thank you. New Jersey State
8 Municipal Prosecutor's Association.

9 MS. DEPALMA: Good morning members of the
10 Court.

11 THE COURT: Good morning.

12 MS. DEPALMA: My name is Annette DePalma and
13 I'm speaking on behalf of my association, the New
14 Jersey State Municipal Prosecutor's Association. I
15 prosecute in Maplewood and occasionally other townships
16 in Essex County. So, the Supreme Court's order, going
17 back to its original proposal in April has generated
18 much spirited conversation, as you can imagine, among
19 our members. We originally voted in opposition at a
20 time when the -- the category of cases proposed was
21 significantly broader than it is now pursuant to the
22 Supreme Court's order.

23 However, the -- once the final order came out
24 the majority of our members who voted on this issue
25 voted to support the issue. We believe that the order

1 strikes the right balance. It recognizes both
2 Municipal prosecutors' likely inability, impossibility
3 or difficulty at best in actually moving minor matters
4 whose charges were initially brought 15 years or more
5 before. And, provides relief for defendants who may
6 have long since moved on from very minor infractions.
7 I would just like to add that for people who believe
8 that we're letting -- that this order will facilitate
9 no consequences whatsoever for persons who may have
10 those minor cases that is not the case.

11 Because, there are penalties under the
12 Parking Order Adjudication Act -- excuse me -- the
13 Parking Offenses Adjudication Act, which may have
14 involved surcharges, etcetera, administratively. I
15 appreciate the opportunity given to make these remarks.
16 And, we welcome participation in all matters related to
17 Municipal Courts. We are on the ground. And, we do
18 see first hand what happens. And, again, we fully
19 support this order.

20 THE COURT: Thank you so much.

21 MS. DEPALMA: Thank you.

22 THE COURT: American Civil Liberties Union of
23 New Jersey.

24 MS. HUERTAS: Good morning Your Honors. My
25 name is Elyla Huertas and I'm an attorney at the

1 American Civil Liberties Union of -- of New Jersey.
2 Thank you for the opportunity to speak before the panel
3 today. I'm happy to be here on behalf of many civil --
4 New Jersey civil rights groups including the ACLU of
5 New Jersey, the Drug Policy Alliance, the -- the Latino
6 Action Network New Jersey, the NAACP New Jersey State
7 Conference and the New Jersey Institute of Social
8 Justice.

9 Each of these groups have a significant
10 interest in ensuring that the criminal justice process
11 in our state is fair. And, we have each invested
12 significant resources to ensure that our system treats
13 all participants fairly regardless of race, ethnicity
14 or socioeconomic status. We think the Court's proposed
15 order to dismiss older -- minor Municipal Court
16 complaints is extremely important. And, it is because
17 of that, that we are here today to make clear that we
18 enthusiastically support this proposal.

19 Older warrants simply serve no public safety
20 purpose. Over the course of the hearings some will
21 argue that we should not allow people to get away with
22 not paying for old tickets. But, that position
23 overlooks what's really happening here. Aging warrants
24 from a failure to appear are not the result of people
25 who intentionally decide to gain the system. An

1 overwhelming majority of these warrants result from
2 people not being able to pay tickets or people not
3 realizing they even exists.

4 It goes against reason to assume that people
5 are risking significant contacts with law enforcement
6 or immigration officials just to save money on a ticket
7 they can afford. It has been well established that
8 many of the financial consequences of these minor
9 offenses have grown exponentially since they were first
10 issued because of fines assessed in addition to the
11 original ticket. Many of those -- many of these also
12 have had administrative costs added to them as well.
13 So, those who could not afford to pay these fines in
14 the first place now find themselves in a hole they
15 cannot dig out -- dig out of.

16 It has also been established that some New
17 Jersey Municipal Courts have often failed to inquire
18 into people's ability to pay and they've also refused
19 people the opportunity to make payment plans. And,
20 because of that they've made New Jerseyan's (sic) feel
21 they must avoid going to court to avoid possible jail
22 time. Which sometimes can mean the possible loss of a
23 job, the inability to care for their families and so
24 on.

25 It does not benefit our state to have New

1 Jerseyan's (sic) that are scared to walk out of their
2 houses because of a chance encounter with law
3 enforcement that may result in jail time because they
4 can't afford to pay hundreds of dollars for a parking
5 violation from 2001 or even older. I would be remiss
6 if I did not use Ferguson, Missouri as a cautionary
7 tale.

8 We've learned from the -- the -- the
9 Department of Justice's investigation into Ferguson's
10 Municipal Court practices what can happen when we allow
11 revenue to be the driving course behind our criminal
12 justice process. There we learned that the Court's
13 practices as well as unfortunate encounters with law
14 enforcement over minor offenses resulted in extreme
15 erosion of public trust. We must avoid that here in
16 New Jersey and make sure that every step of the way our
17 Judiciary is prioritizing the true administration of
18 justice over making money.

19 Many other people who submitted comments or
20 who will be speaking over the next few days will also
21 point out the important fact that these aging warrants
22 are also extremely costly to administer. So much so,
23 that the cost to administer them at this point will
24 probably far exceed whatever -- whatever fees may be
25 collected. And, we think it is important that the

1 Court consider this point as well. We applaud this
2 proposal by the Judiciary. But, hope this is just a
3 first step.

4 We should be considering dismissing anything
5 older than ten years and perhaps even -- even less than
6 that. We also hope that the Judiciary will consider
7 expanding the type of offenses that can be included on
8 this list as well. Based on these points as well as
9 those mentioned by other speakers we believe this order
10 is a significant step forward and urge the panel to
11 recommend dismissing the warrants as proposed. And, if
12 there are no questions that concludes my remarks.

13 Thank you for your time.

14 THE COURT: Thank you. Volunteer --
15 Volunteer Lawyers for Justice.

16 MS. NEEL: Good morning Your Honors. My name
17 is Rosa Neel. And, I am the staff attorney at
18 Volunteer Lawyers for Justice. I am here to offer our
19 support for the proposed order that would allow for the
20 dismissal of open Municipal Court matters for minor
21 offenses that are more than 15 years old. VLJ is a non
22 profit legal services organization based in Newark, New
23 Jersey. Our mission is to improve the lives of
24 economically disadvantaged and at risk adults, children
25 and families in New Jersey by empowering them with

1 education tools and advice and pro bono representation
2 to obtain fair and equal treatment within the legal
3 system.

4 A significant amount of the work that VLJ
5 through our veterans legal program and our reentry
6 legal services program involves providing assistance to
7 individuals seeking to expunge their criminal records
8 and or restore driver's licenses that have been
9 suspended for various reasons. These two issues have
10 been identified as some of the most frequently
11 encountered legal issues for low income individuals in
12 our region. Through our work in these areas we see
13 countless individuals who are struggling due to minor
14 offenses that are more than 15 years old but remain on
15 their record.

16 Our clients often have open warrants for
17 failure to appear in cases that involve parking
18 violations, motor vehicle offenses, such as going
19 through a stop sign, certain speeding offenses, or
20 running a red light, and various local ordinance
21 violations. In some cases individuals never have
22 another offense. But, can't catch up with fines
23 associated with these older, minor offenses. Most
24 don't have the guidance or legal representation to
25 understand and navigate open bench warrants on these

1 older, minor offenses.

2 Moreover, knowing that these matters remain
3 open causes a considerable amount of stress for our
4 clients. As these records can impact their employment,
5 livelihood and peace of mind. We devote hundreds of
6 hours every year to helping these individuals write pro
7 se letters to Municipal Court Judges to have old
8 charges dismissed. At our legal clinics we meet
9 individuals whose stories highlight the struggles they
10 face because of these open matters.

11 Many of our clients are impacted by physical
12 and mental disabilities, extreme poverty, and even
13 homelessness. Many have kept a clean record since the
14 older, minor offense. And, have shown their commitment
15 to improving as citizens. Sometimes their ability to
16 close old matters is the only thing keeping them from
17 moving forward in their lives. In other situations
18 violations from the past can become a vicious cycle
19 impeding individuals from supporting themselves and
20 their families by preventing them from securing
21 employment, housing or a driver's license which is
22 often a prerequisite for jobs.

23 And, sometimes the only viable way to visit
24 their children and family. Allowing individuals a
25 clean slate with which to procure employment and

1 housing also reduces reliance on public benefits. We
2 commend the Supreme Court Committee on Municipal Court
3 Operations, Fines and Fees for recommending the
4 development of this process. Warrants for minor
5 offenses that are more than 15 years old should be
6 dismissed because they do not serve the public
7 interests and are, in fact, a deterrent to full and
8 active membership. We believe this is a -- step in the
9 right direction and an important development in New
10 Jersey's legal system. VLJ strongly urges the panel to
11 accept the proposed order to dismiss these warrants.
12 Thank you.

13 THE COURT: Thank you. Thank you. That
14 concludes the agencies that have signed up. Is there
15 anyone else who's a late arrival that has been
16 scheduled to speak? All right. With that we'll
17 dismiss for this morning. Thank you.

18 (Proceeding concluded at 10:26 a.m.)
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25

CERTIFICATION

1

2

3 I, Melissa Ulrich, the assigned transcriber, do

4 hereby certify the foregoing transcript of proceedings

5 on CourtSmart, Index No. from 10:08:30 to 10:26:39, is

6 prepared to the best of my ability and in full

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8 Judicial Proceedings and is a true and accurate non-

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12

/s/ Melissa Ulrich

Melissa Ulrich

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11/02/18

Date

SUPERIOR COURT OF NEW JERSEY
BURLINGTON COUNTY

THE MATTER OF:)
)
MUNICIPAL DISMISSAL)
HEARING BEFORE A THREE)
ASSIGNMENT JUDGE PANEL.)

Place: Burlington Co. Courthouse
49 Rancocas Road
Mt. Holly, NJ 08060

Date: October 24, 2018

BEFORE:

THE HONORABLE YOLANDA CICCONE, J.S.C.
THE HONORABLE RONALD E. BOOKBINDER, J.S.C.
THE HONORABLE ERNEST M. CAPOSELA, J.S.C.

TRANSCRIPT ORDERED BY:

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1 (Court in Session)

2 JUDGE CICCONI: Please be seated, everyone.

3 (Pause)

4 JUDGE CICCONI: Good morning. I am Judge

5 Yolanda Ciccone and I am here with my colleagues, Judge

6 Bookbinder and Judge Caposela for the municipal

7 dismissal hearings.

8 I have an opening statement then I'll call

9 upon Mr. Hoffman as our first speaker.

10 On July 19th the Supreme Court issued an

11 order establishing this three assignment judge panel to

12 hold three regional hearings to determine the

13 appropriate way to address older pending municipal

14 court complaints that involve minor matters. This

15 hearing is the third of those hearings.

16 We have solicited written comments and will

17 now hear oral testimony as to why older minor municipal

18 court complaints pending for more than fifteen years

19 should not or should be dismissed.

20 It is worth noting that the challenges to

21 individual cases will not be considered at this

22 hearing.

23 The impetus for the Court's July order is

24 worthy of discussion.

25 On July 17th the Court released a report

1 prepared by the Supreme Court Committee on Municipal
2 Court Operations, Fines and Fees. These hearings were
3 inspired in part by a recommendation contained in that
4 report to develop the process for the dismissal of old
5 complaints taking into account the seriousness of the
6 offense charged, the age of the case and other relevant
7 factors. The Committee's report was open for public
8 comment until September 24th.

9 I highlight this background to make it clear
10 that although the report may be heavy in all of our
11 minds, this is not the forum for commentary on its
12 contents.

13 The issue presented for consideration today
14 is why older minor municipal court complaints pending
15 for more than fifteen years should or should not be
16 dismissed.

17 We will call on the speakers in the order of
18 the sign in sheet. Speakers at this hearing have
19 submitted written comments and all of those comments
20 have been reviewed by the panel.

21 Please note that these proceedings are being
22 recorded. When you approach, state your name and if
23 you are speaking on behalf of an organization or a
24 municipality, identify the organization or
25 municipality.

1 Each speaker's oral presentation will be
2 limited to five minutes.

3 Mr. Hoffman?

4 MR. HOFFMAN: Yes, Your Honor.

5 JUDGE CICCONE: Please come forward.

6 (Pause)

7 MR. HOFFMAN: Good morning, Your Honors.
8 May it please the Court, I appreciate the courtesies
9 that you've given me as I do have municipal court
10 scheduled in about an hour. Thanks to Judge Bookbinder
11 that I don't have to be there right now.

12 But one of the major impetuses for me being
13 involved in the municipal courts was my father. We
14 practiced for thirteen years together in Vineland and
15 he practiced for forty-five years in basically every
16 role in the municipal court; he was a Judge, a
17 Municipal Prosecutor and a Municipal Public Defender.

18 He also was a debt collection attorney and
19 had anywhere between, depending on -- because I can't
20 find the exact number, between fifty and seventy-five
21 thousand cases that he filed in the Special Civil Part
22 and Small Claims Divisions of the Superior Court.

23 As a father, mentor and as a partner, he
24 taught me many lessons that are effective in many
25 different situations. The one that I want to apply

1 here and suggest to this panel to consider is use what
2 you got to get what you need.

3 As a poor comparable, but to use two
4 comparables from our practice, we had -- he developed a
5 software in 1980 on Xenix which converted to DOS that
6 he used until his death about two years ago that not
7 only was able to adapt and control fifty to seventy-
8 five thousand cases and manage them as a sole
9 practitioner, but was able to communicate with the
10 court's JEFIS system, was able to produce large amounts
11 of documents, and was able to do so efficiently.

12 And he had tons of opportunities to upgrade
13 and spend tens of thousands of dollars, but he didn't
14 do it because he used what he had to get what he
15 needed.

16 As another suggestion, and I actually
17 brought a visual on this, he would often -- and as a --
18 as a practitioner in a -- in a -- in many different
19 types of practices, we had -- we had to get a lot of
20 paper. You know, when you're dealing with that kind of
21 volume practice, you have tens of thousands of sheets
22 of paper that you go through monthly, annually; paper,
23 pens, ink, toner and envelopes. And we would go to any
24 sale we could possibly find. And most boxes of
25 paper -- or most boxes of envelopes are about ten

1 bucks.

2 Well, he went up to a sale that had cases
3 of -- cases of envelopes, five hundred times five,
4 twenty-five hundred envelopes, two bucks apiece, in
5 the -- in there for ten bucks a box. Bought them all.
6 Twenty boxes, fifty thousand envelopes. Just said
7 (snap) do it.

8 Got back to the office and found they were
9 number elevens. Now, he just kind of said, well, we
10 can still use them, but they look a little weird, but
11 you can use them. Then he said, give me a SASE.

12 Now, a SASE in our -- in our parlance in our
13 office was a self-addressed stamped envelope, which is
14 a normal size ten envelope. And they would normally
15 get stapled onto the back of something and folded in
16 and the envelope would be nice and puffy because it
17 would be in there. And he took the envelope, put the
18 other one inside and it fit perfectly and it was flat.

19 And what he tried to tell me through that
20 and what he taught me in that situation is sometimes
21 there are unexpected benefits to using what you have to
22 get what you need.

23 In the situation here, I've suggested
24 through what I've written and through -- through my
25 commentary that while the elimination of these after

1 fifteen years is a good idea and should be done and the
 2 municipal court practitioners' position that I'm part
 3 of with the State Bar Association was absolutely in
 4 favor of it, as am I. I think that these older cases
 5 should get eliminated. But they need to be eliminated
 6 with a procedural and -- and conceptual idea of how and
 7 why.

8 Fifteen years appears and seems arbitrary.
 9 What I would suggest is applying the rules that already
 10 exist. Use what you have. Statutes of limitations.

11 And I'm going to split the -- the cases in
 12 half. Before --

13 JUDGE CICCONE: You're getting close to the
 14 five-minute limit.

15 MR. HOFFMAN: Oh, I'm sorry. Pre and post-
 16 judgment, I'll just focus on the post, which is where
 17 you have most of the things, where there's already --
 18 where there's already judgments, where you have --
 19 where most of those tickets are.

20 On those, consider them judgments under --
 21 as you would, under the civil judgments, they're
 22 subject to the twenty-year statute of limitations.
 23 Apply the twenty-year statute of limitations and allow
 24 for a revival after twenty years.

25 If -- and rule out for presumptive revival

1 on those cases where -- where there is a specific
 2 public policy interest for them to be continued.

3 I welcome any questions with regard to --
 4 with regard to what I submitted because I know that
 5 my -- my submission was probably a lot different than
 6 anybody else's.

7 JUDGE CICCONE: I -- we have no questions.

8 MR. HOFFMAN: Okay.

9 JUDGE CICCONE: Thank you.

10 JUDGE BOOKBINDER: Thanks for coming.

11 MR. HOFFMAN: Thank -- thank you. I'm going
 12 to head to Deptford.

13 JUDGE BOOKBINDER: Thanks.

14 (Speaker Excused)

15 JUDGE CICCONE: Michael Hagner, Borough of
 16 Audubon?

17 (Pause)

18 MR. HAGNER: Good morning, Your Honor.

19 JUDGE CICCONE: Good morning.

20 JUDGE BOOKBINDER: Good morning.

21 JUDGE CAPOSELA: Good morning.

22 MR. HAGNER: Michael Hagner on behalf of the
 23 Borough of Audubon.

24 I'd just like to thank the panel for
 25 allowing me to speak today.

1 And as a preliminary matter, I think the
2 Borough -- the Borough fully understands and
3 appreciates the benefits dismissal of these cases would
4 offer to some of the larger municipalities and cities
5 in the state.

6 The Borough and other small municipalities,
7 I think, in speaking with them, their issue was that
8 this doesn't provide any benefits to the Borough. And
9 in speaking with them very quickly, I spoke with the
10 Mayor, the Commissioner, the Municipal Court
11 Administrator, I think they're feeling -- and we just
12 did a quick pros and cons list, and we really couldn't
13 identify any benefits.

14 And the reason for that is for a small
15 borough like Audubon, they're able to track these
16 cases. They were aware of -- of the old ones they had;
17 even indicated that on occasion people will come in
18 and -- and pay the fines even for these old cases that
19 are outstanding.

20 And so just for them it made sense to just
21 continue on and when people come in they'll collect
22 their, you know, financial -- or they'll settle their
23 financial obligations. It's not a ton of extra revenue
24 for the Borough. That's not really the main
25 consideration for them, it's just sort of the

1 overall -- there's a little bit of a benefit for them
2 to leave them and there's no, really, benefit to have
3 them dismissed.

4 And then their second issue was just the
5 overall message that -- that it sends. And obviously
6 by not enforcing minor penalties for fifteen/twenty
7 years, it's not a great message to send either. But if
8 they're just outright dismissed, then I think their
9 concern is that that message is emphasizing and they
10 don't want -- maybe the class of individuals who would
11 otherwise pay on time will now think that, well, I got
12 this parking ticket. If I wait for ten/fifteen years,
13 it will just be removed.

14 It's really just their position that -- they
15 believe that small municipalities should simply just be
16 given an option whether they would like to be a part of
17 this and have all their cases dismissed as part of the,
18 you know, administrative action or whether they can
19 have a -- an option just to opt out, allow their cases
20 to stay on.

21 If they -- if need be, they can show how
22 they're tracking them and how they're going to continue
23 to attempt to enforce them. But that's -- that's
24 really just their only concern.

25 That's really all I have today.

1 JUDGE CICCONE: Thank you.

2 MR. HAGNER: Okay, thank you.

3 (Speaker Excused)

4 JUDGE CICCONE: Patricia McKernan,
5 Volunteers of America, Delaware Valley.

6 (Pause)

7 MS. MCKERNAN: Good morning. Thank you,
8 Judge Bookbinder, Judge Caposela, and Judge Ciccone.

9 My name is Pat McKernan. I'm Chief
10 Operating Officer for Volunteers of America, Delaware
11 Valley. VOADV is a non-profit organization providing
12 community-based assistance to people so they can lead
13 self-fulfilled independent lives.

14 Currently we have fifty-four programs
15 serving more than ten thousand people across the
16 Delaware Valley. We serve people who are homeless,
17 people seeking permanent housing, struggling with
18 addictive behavior, coping with chronic mental illness,
19 and people returning from the -- returning to society
20 from the criminal justice system; people also in need
21 of shelter, people who are disabled, people who are
22 struggling with domestic violence.

23 And I want to thank you for conducting this
24 important -- this hearing on this important matter.

25 We also were part of the -- the New Jersey

1 Supreme Court Committee. The -- one of the
2 recommendations, number seven, about developing a
3 vicinage-wide community-led program in Atlantic County
4 and we're one of those proud partners and we are --
5 would -- I think it's important to note that the
6 overwhelming majority of the clients we serve in our
7 re-entry programs as well as our homeless shelters have
8 outstanding municipal court matters, many dating back
9 many years.

10 I've already submitted written comments, but
11 I'd like to pull up -- and obviously we're in very --
12 very much in support of dismissing unresolved municipal
13 court cases that are more than fifteen years old.

14 I'd like to take a moment to just reiterate
15 some of the more salient reasons as to why.

16 Your court report already -- the court
17 report identified that there's two-and-a-half million
18 outstanding municipal court bench warrants for failure
19 to appear and failure to pay. It's estimate --
20 estimated that ninety -- or eighty to ninety percent of
21 people charged with felonies are low income.

22 Your report -- and the Supreme Court has
23 already expressed concern about the excessive
24 imposition of financial obligations on certain
25 defendants and the use of bench warrants and license

1 suspensions as collection mechanisms.

2 This is not new, the recognition of legal
3 financial obligations and the negative impact on low
4 income people involved in the criminal justice system
5 is not new.

6 2015, the United States Council on Economic
7 Advisors, it recognized that during the period of
8 exponential growth in the criminal justice system,
9 policy makers argued tax payers should not bear the
10 responsibility for increasing costs.

11 In their brief about fines, fees and bail,
12 they acknowledge that state and local governments
13 increasingly turned to monetary sanctions for such
14 fines, infractions, misdemeanors and felonies, as well
15 as court fees as additional sources of revenue.

16 Monetary sanctions like fines and fees have
17 been characterized as regressive payments that
18 disproportionately affect the poor.

19 Researchers note that legal debt is
20 particular injurious. Unlike consumer debt, it's not
21 offset by the acquisition of goods or property. And
22 it's not subject to relief through bankruptcy
23 proceedings and may trigger an arrest warrant, arrest,
24 or incarceration.

25 The same researcher recognizes that criminal

1 justice involvement can -- is both a consequence and
2 cause of poverty.

3 In my written comments, I've identified the
4 top ten municipalities, as well as the top five
5 counties, who are earning significant revenue in
6 municipal court fines. I also have a website dedicated
7 to this issue if you were so interested in looking at
8 it.

9 I would offer one other consideration is
10 that there are ten thousand men and women coming home
11 from state prison a year -- state prison, I'm not
12 necessarily talking about county jails. Most of them
13 are returning after years of incarceration only to find
14 that low level municipal court matters are still
15 waiting for them.

16 Disappointingly, the resolution of these
17 matters has often been the imposition of a payment
18 plan, which unduly strains the returning citizen with
19 additional debt. And adding financial burdens to the
20 formerly incarcerated is a significant impediment to
21 community reintegration and rehabilitation that can
22 lead to re-incarceration.

23 While the panel is considering the benefits
24 of dismissing fifteen-year-old warrants -- unresolved
25 warrants, I'd urge you to also consider how municipal

1 court matters could be revealed and resolved at or
2 before the time of sentencing in Superior Court.

3 When someone is sent to state prison, they
4 should not have to come home and face outstanding
5 municipal court matters such as fines, fees and
6 warrants as they have served their time of
7 incarceration. When someone has served their time,
8 they should have literally and figuratively paid their
9 debt.

10 In closing, this administrative order, I
11 think, is a significant and needed step in reforming
12 the municipal court and restoring faith in the criminal
13 justice system. Thank you.

14 JUDGE CICCONE: Thank you.

15 (Speaker Dismissed)

16 JUDGE CICCONE: All right, that concludes
17 the parties that have signed in. Is there anyone else
18 who wishes to speak who has not signed in?

19 (Pause)

20 JUDGE CICCONE: All right, then, court is
21 dismissed. Yes, ma'am?

22 MS. GRIFFIN: I didn't -- my name is
23 Attorney Nancy Griffin. And we weren't able to submit
24 a written response in advance. Can I still --

25 JUDGE CICCONE: Yes, you can.

1 MS. GRIFFIN: Thank you.

2 (Pause)

3 JUDGE CICCONE: Give us your name and if you
4 represent an organization.

5 MS. GRIFFIN: My name is Attorney Nancy E.
6 Whatley Griffin. I'm a volunteer with the Renew Camden
7 program in Camden, New Jersey, assisting citizens who
8 are re-entering society.

9 And I would just simply like to say that in
10 my representation of formerly incarcerated individuals,
11 when they are faced with what may seem to others as a
12 small fine of two hundred here, three hundred there, it
13 does pose a enormous impediment to them to be able to
14 come back home and get readjusted.

15 Sometimes they're able to get a small part-
16 time job, but because of the license suspensions and
17 the other fines, they are faced with a Catch-22
18 situation. They can't get to their employment because
19 they have no transportation. They can't get
20 transportation because there's a suspension on their
21 license. And sometimes these fines and suspensions
22 have been there since they were early teens and these
23 are people who are re-entering society now in their
24 thirties.

25 They are technically homeless once they come

1 out of prison. So here they are. They're -- they
 2 don't have sub -- they don't have adequate housing,
 3 they have tenuous position in employment. And what
 4 little money they're making they -- which could go to
 5 saving up to move into an apartment, purchase a car, go
 6 to work each day, they're instead shackled with these
 7 fines and with the inability to obtain a driver's
 8 license.

9 So my recommendation would be that we do
 10 dismiss these outstanding fines because it's better for
 11 society at whole that we are allowing citizens to
 12 return and to become fully employed, tax-paying
 13 citizens.

14 Thank you very much for your time.

15 JUDGE CICCONE: Thank you.

16 UNIDENTIFIED JUDGE: Thank you.

17 (Speaker Dismissed)

18 JUDGE CICCONE: Again, anyone else?

19 (Pause)

20 JUDGE CICCONE: All right. Court is
 21 dismissed at this time. Thank you.

22 Court Adjourned)

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 4 C E R T I F I C A T I O N
 5

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