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STATE OF VERMONT
OFFICE OF THE STATE'S ATTORNEY
GRAND ISLE COUNTY

February 16, 2016

Vermont General Assembly
House Committee on Judiciary
115 State Street
Montpelier, VT 05633-5301

RE: Opposition to "Lighten the Load" Proposal to Regionalize the Courts: DR15

Dear Chairwoman Grad and Members of the House Judiciary Committee:

On February 3, 2016, I was present for Judge Brian Grearson's testimony before your committee regarding the Vermont Judiciary's proposal to regionalize the courts. After hearing his testimony, I took the time to fact check many of his assertions, as they were not ringing true to me. As you may or may not know, I was an employee with the Vermont Judiciary from 2006 to 2012 in Grand Isle County.

During his testimony in front of your committee, Judge Grearson stated:

"[T]he [Franklin] County Court presently, or historically had three days of civil scheduled **and two other days the judicial bureau hears its cases in there.** In the last week, this is an evolving situation, last week I convinced the Judicial Bureau to reduce their number of days in that Court to two days a [month]."

This is not entirely the case. A recent dialogue with the Court Operations Manager of the Franklin County Court and a Public Records request submitted to the Vermont Judicial Bureau revealed that they have historically utilized the courtroom in the county court approximately two days per month, and not two days per week as was presented to the committee by Judge Grearson.

The crux of Judge Grearson's argument is that the Judiciary simply has run out of physical space in Franklin County to hold any additional hearings—he says he has the judges now to send up to Franklin County, but no courtrooms available. During his testimony, Judge Grearson stated:

"[I]n my discussion with the Court Clerk in Franklin, I put a simple question to her: If I have more judge time available, do you have a place to put that judge, and the answer is no. . . We just run out of physical space to [hear more of the domestic cases] up there."

A review of all the court calendars for the Vermont Superior Court's Franklin Unit reveals numerous dates and times where a judge could be brought in to hear domestic cases. I used the Vermont Judiciary's own court calendars between February 5, 2016 and March 11, 2016, and created a 6-page spreadsheet showing all the courtrooms and dates that could have been used to bring another Judge in to hear more of the domestic (and other) cases. I had my Victim Advocate, who until recently worked for the Vermont Judiciary as a Docket Clerk in Franklin County, review my work to ensure its accuracy. I have enclosed all of the court calendars used, and the spreadsheet created, for your convenience. Furthermore, I have enclosed Judge Grearson's testimony from February 3, 2016, which I took the time to transcribe.

Ever since I was employed with the Judiciary, there has been a push from them towards regionalization. My fear is that if the Judiciary is given a blank check to create these large regions of no more than four counties, they will require pro se litigants and other vulnerable members of the public seeking access to justice to drive significant distances, so as not to inconvenience the Judiciary. The Judiciary could, in essence, under a Regional Venue scenario, decide to hold all hearings for Grand Isle County residents in Burlington (or even Middlebury or Hyde Park). Judge Grearson stated in his testimony that regionalization "is something that . . . has come before a many number of years, and there may have been different motivations". However, myself and many of my colleagues maintain that the underlying motivation has always been the same—complete control so as to create four or five large regions in Vermont resulting in the eventual closure of our county courthouses. While the Judiciary has not disclosed the framework of these proposed regions, I refer you to the Vermont Supreme Court's Amendment to Administrative Order No. 14, dated March 9, 2015 (enclosed) which for appellate and administrative purposes divided the State of Vermont into four regions.

My concern is well-founded, and comes from the fact that this is not uncharted territory for the Supreme Court. Back in 2008, the Vermont Judiciary unilaterally decided to pull from Grand Isle County all Judicial Bureau hearings stemming from incidents that occurred within our county borders, and scheduled these hearings across Lake Champlain in Franklin County. Prior to this action, these hearings occurred pursuant to venue rules, in Grand Isle County. From a conversation with then-Administrative Judge Amy Davenport (immediately after I spoke with the Senate Judiciary Committee), it was my understanding that the elimination of the Judicial Bureau's presence in our county was all done solely for the convenience of the retired Hearing Officer they were utilizing—she did not want to travel to North Hero. The convenience of the litigants and the law enforcement officers, mainly the Grand Isle Sheriff's Department who is for the most part our sole source of law enforcement coverage in Grand Isle County, were obviously not considered. But had they been taken into consideration, their interests were undoubtedly outweighed by the need to keep the specific retired Hearing Officer happy and content. So clearly, the Supreme Court had the flexibility in the past that they are now pressing for and claiming that they need to succeed, yet I contend that they took advantage of similar venue discretion given to them in the past, as evidenced by their unilateral restructuring of venue for the Judicial Bureau to the detriment of the residents of Grand Isle County and our Sheriff's Department. There is no savings to the taxpayers of Grand Isle County (or any other county) through this style of administering justice based on the convenience of the Vermont Judiciary. Thankfully, back in 2010, the unilateral action the Judiciary had taken in "regionalizing" Grand Isle cases in the Judicial Bureau ultimately resulted in a legislative fix (Section 54 of H.470 at the time) specifically to the venue for the Judicial Bureau

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so that “[v]enue for violation hearings in the judicial bureau shall be in the unit of the superior court where the violation is alleged to have occurred.” 4 V.S.A. § 1103.

In my experience, many of the people who use the courthouses in Grand Isle and Franklin (and I suspect all over the state) have significant transportation and financial issues. Patricia Gabel, the Court Administrator, confirmed this in her Security Report submitted pursuant to Act 58, dated January 29, 2016, wherein she stated that “the Judicial Bureau serves a vulnerable population in need of services and public access.”

Regionalization, of any kind, would not “lighten the load”. It would only “shift the load” to the public, forcing our residents to travel much farther to access justice. As Dana Fabe, Chief Justice of the Alaska Supreme Court, stated in her 2015 State of the Judiciary speech, “[O]ur greatest challenge [will be] to resist the financial pressures to centralize our operations in hub communities and insist that Alaskans come to those hubs for justice or do without”. Vermonters should not be forced to drive farther than their own county courthouse to access justice. To that end, I strongly oppose the “Regional Venue” section of DR15.

Thank you for your time. Should any of you have any questions, please do not hesitate in contacting me directly.

With sincere regards,



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Grand Isle County State’s Attorney

DDS/jj

Enclosures

CC: Rep. Mitzi Johnston, Chairwoman, House Committee on Appropriations
Rep. Mary Hooper, Member, House Committee on Appropriations
Rep. Robert, Krebs, Grand Isle County
Sen. Dick Mazza, Grand Isle County
Vincent Illuzzi, Esq., Essex County State’s Attorney
Jesse D. Bugbee, Esq., President, Franklin-Grand Isle Counties Bar Association
Vanessa Branon Kittell, Esq., President, VTAJ
Hon. Sherri Potvin, Asst. Judge, Grand Isle County
Hon. Joanne Batchelder, Asst. Judge, Grand Isle County
Hon. George Spear, Esq., Probate Judge, Grand Isle County
Sheriff Ray Allen, Grand Isle County
Michelle Monroe, Staff Writer, St. Albans Messenger
Tonya Prouty, Asst. Editor, The Islander Newspaper