

**TESTIMONY FOR PRESENTATION TO THE JUDICIARY COMMITTEE
CONSIDERING LEGISLATION CONCERNING THE PROBATE COURTS, AT A
PUBLIC HEARING HELD MARCH 30, 2007**

I am Stuart Case, Probate Judge for the District of Hampton, in the Quiet Corner of Eastern Connecticut. I am offering this testimony in opposition to **Raised Bill No. 1272, “An Act Concerning Administration of the Courts of Probate, and the Duties of the Probate Court Administrator”**. As will be clear from my remarks below, my comments concerning discriminatory training practices engaged in by the Present Probate Administrator also lead to my opposition to **Sec. 1(2) of Raised Bill No. 1453, “An Act Concerning the Transfer of an Application for the Appointment of a Conservator to the Superior Court or Another Probate Court”**, because of its implication that only certain selected and favored probate judges will have the necessary skills and training to hear conservator matters in the future. If the Administrator continues on his present course, he will make this into a self-fulfilling prophesy. Finally, I believe that **Section 9, of Raised Bill No. 1438, “An Act Concerning Certain Probate Court Hearing and the Filing of Certain Reports**, is unwise and unnecessary, since the Probate Court Administration has demonstrated, that even with its present bloated bureaucracy (which we courts pay for), it has not been consistently able in recent months to meet even its present schedules. Therefore there is no benefit in tightening those schedules; and doing so will impose even more burdens on the courts themselves.

To begin with, it is important to stress, that I and my colleague judges, like you representatives, are democratically elected public officials, responsible to our constituency electorate, and susceptible to being removed by them if they are dissatisfied with our performance. The Probate Administrator, by contrast, is an unelected administrator chosen by

the Chief Justice of the Supreme Court, and from whom, as he has said many times, he takes his marching orders. Since at present there is no Chief Justice, in effect the Administrator reports only to himself, and considers himself free to pursue his own objectives. These appear to be (1) the forced consolidation and elimination of the town-based small and medium-sized probate court system, in favor of a small number of regional courts under his supervision; (2) continued expansion of the ever more expensive regional children's courts from their urban base to less populous and more spread out rural areas such as mine, where the social pathologies follow completely different models, and what is good for New Haven and Hartford is not necessarily what is best for Hampton, or Deep River; (3) a program of rewarding his supporters and punishing his opponents by systematically awarding his supporters plum assignments in his new model courts, while working to create a class of "unqualified" local judges who will be barred from hearing increasing classes of cases, such as problems of children, conserved individuals, or retarded persons, because they will "lack proper training and qualifications." **Raised bill No 1453**, for example will give "any interested person" power to remove applications for involuntary representation to either Superior Court *or to a panel of qualified probate judges selected by the administrator.*

How will this be done? By discriminatory training opportunities. An example will suffice. This coming Monday and Tuesday the Probate Administration is offering an intensive two-day "Judges Institute" on Children's Matters, to which only a select handful of probate judges were invited by the Probate Administration, on short notice. The other judges were not told of this training at all, and still have not been officially invited. However word leaked out when favored judges asked other judges if they were attending only to be met with looks of surprise or blank stares, since these judges—from small and medium-sized courts-- had been

kept in the dark about this training. When confronted, the excuse given is that the Administration “cannot afford” or finds it impractical to offer the training to all the judges, on account of cost. This is despite the fact that this training cost comes out of the Probate Administration Fund for which all judges are assessed annually, and to which they contribute handsomely in many cases. This money, which is the judges’ money, is being siphoned off into the Administrator’s own pet project—the children’s courts. Of course, since the training is in lecture format, the additional cost for offering the training all of the judges, is the renting of a slightly larger room, and paying for a few more donuts and sandwiches. As for the excluded judges interest in the matter, I would only point out that the Administration’s training programs this year for new judges, and on mental illness, were well attended by judges from the small and medium courts, even though they may not handle intense numbers of these cases.

This discrimination and favoritism among judges who back the Administrator must stop, and because it hasn’t, and the Administrator lacks effective supervision and checks, I suggest that granting him even more powers over the courts is unwise. Perhaps some day a different Administrator, operating under different mandates and effective, democratic supervision, will demonstrate that there is a real need for increased powers, and that they will be used evenhandedly. This time has not come.

As to the issue of tightening deadlines for the filing of income reports, another anecdote from my court, that reflects the experience of a number of smaller and medium courts whose compensation is based on the unfair Weighted Workload System (WWL) will illustrate why the present Office of Probate Administration is not up to handling their own proposal.

The present WWL system is under study by professional consultants trying to come up with a fairer compensation system, so I will not belabor my objections to it here. But here is what is happening:

Towards the end of last year, the Administration undertook a program of modernization by installing state-owned computers in all the courts with a Case Management System (CMS). As will be shown below, the CMS, while a good idea, will be riddled with problems of improper reporting. At present, judges keep paper records of the matters they handle on a daily basis, and from these paper records monthly reports are made to the Administration, from which the WWL is calculated. At the beginning of a new year, the Administration is supposed to supply a calculation of the WWL upon which each court calculates the allowable compensation that the judge can take. The difference between this WWL calculated compensation and the court's actual income, less expenses, is then assessed and drawn off into the aforementioned Probate Administration Fund.

This year, without telling the judges, the Administration took a calculation of the WWL of its own for the entire year, based on what was in the CMS system, even though the system had not been in use for more than a few months. Whether because of improper training, or faulty programming, or both, the Administration came up with a figure about 30% lower than my own calculations, and challenged me to prove them wrong (implying that the courts which were at variance from the Administration's numbers were either incompetent or dishonest.) My clerk and I spent an entire day of court time going over their figures and our figures, and determined that we were not only correct, but we had actually underestimated! The Administration relented and accepted our figure, giving us only a couple of weeks to file our Income Report, one of the reports in question. Late filing subjects us judges to interest and other penalties. When I filed

my Income Report last week, using the corrected and agreed WWL, it was bounced back to me, for revisions based on the original WWL! At this writing, two days before the filing deadline, the matter still is not resolved!

Clearly one hand at the Administrator's Office does not know what the other hand is doing, and with the present bloated and expensive staff (paid out of the judge supported Administration Fund), it is not hard to understand why internal communication is so bad. Until these problems are worked out, there is no point in changing the deadlines.

Other judges are presenting other objections to these and other bills, I support their objections, but I will not waste your valuable time by repeating them.

Thank you for your attention.

Stuart Case, Esq..

Judge of Probate for the District of Hampton

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