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September 25, 2013

Michigan Supreme Court
Post Office Box 30052
Lansing, Michigan 48909

Dear Madam and Mr. Justices:

I am transmitting to you this correspondence to provide some food for thought in relation to the requirement that preliminary examinations be scheduled and conducted within 14 days from the time of arraignment. That is the rule as interpreted by some district court judges.

I do not consider myself a novice attorney. My bar number is P25892. I was sworn in, in June 1976. At that time, I began employment as an Assistant Prosecutor for L. Brooks Patterson. I was assigned to the Juvenile Division in that office, spent approximately eight months there and then was assigned to the Oakland County Circuit Court. I retired in 1981 as a Senior Trial Attorney.

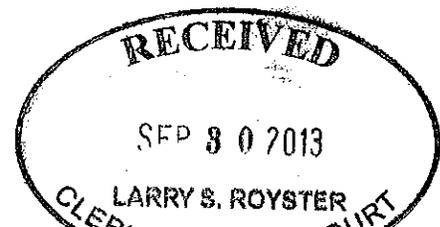
As indicated, in 1981, I went into private practice with another former prosecutor, Mitchell Ribitwer.

For most of my legal career, I have been engaged in criminal practice. First, as indicated, as an Assistant Prosecuting Attorney in 1976, which does not count the time I spent in the Defender's Office in Records Court, now commonly called the "Frank Murphy Hall of Justice," as well as clerking for attorneys prior to my employment with the County of Oakland.

The requirement that the District Courts are now being held to, according to some of the Judges, is that they must begin and complete a preliminary examination within 14 days. That goal is unrealistic.

Mechanically, on major cases, it is quite impossible from the defense prospective, once discovery is received to review it and be properly prepared.

As an example, I was assigned a criminal matter in the 43rd District Court for the City of Hazel Park. The Judge assigned to that Court is Judge Goedert. I was assigned on Thursday, which was sometime in the morning of September 12, 2013. The exam was set for Tuesday, September 17, 2013. The allegations were two counts of First Degree Child Abuse, a capital offense. Discovery itself was 150 pages, which encompassed the police investigation, medical records, doctors opinions, etc. Witnesses to be called by the prosecution were approximately seven or eight, four of those witnesses being medical experts.



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The reason that this assignment was made on Thursday, September 12, 2013, was because prior counsel withdrew at the pre-exam conference on September 10, 2013.

Though Judge Goedert did what was necessary in order to obtain newly appointed counsel, mechanically, it was not possible for the coordination of the prosecutor and defense counsel to meet, arrange for discovery and be properly prepared to proceed, having that discovery reviewed with the client prior to September 17, 2013. Hence, within so-called 14 day rule.

While in many cases, the 14 day rule is workable, it is my contention that this rule in the majority of capital cases and those cases with voluminous discovery is unworkable. It is an obstacle to defense counsel to provide effective assistance to his client.

It is my understanding during discussions with Judge Goedert that this rule places the district judge in an untenable position. The district court judge has to respond to your court as to why preliminary examinations have not been conducted and completed within 14 days. So the pressure is on the district court "to lock and load."

I do understand having practiced many years for the courts to run efficiently and cases to be disposed of without unnecessary delays.

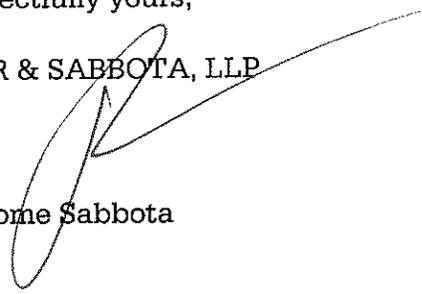
I would hope that efficiency would not subvert the right of individuals charged with crimes to effective representation by not allowing them the opportunity to be properly prepared for those critical hearings.

After all, the purpose of our system is to serve the public, not the courts.

Just some thoughts from a defense counsel seeking to provide effective representation to those that need.

Respectfully yours,

RIBITWER & SABBOTA, LLP



Jerome Sabbota

JS/wk

cc: The Honorable Charles Goedert

Ms. Kelly Collins, Assistant Prosecuting Attorney