

**For Immediate Release**

October 22, 2020

**Summit County Municipal Judges Announce Opposition to Changes in the Attorney  
Appointment Process**

On October 16, 2020, the Summit County Common Pleas Court announced that there would be a change to the felony lawyer appointment process. The Summit County Common Pleas judges proposed that a public defender would handle the initial appearance and bond hearing of a defendant charged with a felony. Thereafter, a Summit County judge would appoint a private attorney to represent an indigent defendant. The majority of the Summit County municipal court judges oppose any changes to the felony appointment process. The municipal court judges were not consulted regarding changes to the process nor were they notified of any public meetings on the subject. According to Rule 5 of the Ohio Rules of Criminal Procedure, the municipal court has initial jurisdiction of felony cases. The municipal court retains jurisdiction after a preliminary hearing/grand jury proceeding and until the docket entries have been filed with the Common Pleas Court (Ohio Rule of Crim. Pro. 5(B)(8)). The municipal judges have jurisdiction to set the initial bond in felony case, address bond modification requests, and retain jurisdiction during the cause determination phase of the criminal proceedings. During the initial appearance, the municipal court judge is to inform the defendant of his/her right to have an attorney and to ensure that an indigent defendant has an attorney if he/she cannot afford an attorney. Criminal defendants have a right to have a qualified attorney for all the essential phases of the criminal process.

The Summit County municipal court judges currently appoint qualified attorneys to represent indigent defendants. Summit County has a private attorney appointment system for defendants charged with a felony. The current system complies with Ohio Administrative Code 12-1-10 regarding attorney qualifications. Ohio Administrative Code 120-1-10 sets forth minimum qualifications for attorneys to accept appointments for felony cases. The rule requires that the appointed attorney have verified jury trial experience. The level of experience required by the rule increases when the defendant is charged with a higher level felony. Many of the public defenders will not be qualified to accept felony appointments. Under the Summit County Common Pleas

Court's plan, the public defenders would represent defendants in cases that they are not legally qualified to handle, placing them in an ethical bind (See Ohio Rule of Professional responsibility Rule 1.1 Competence). Additionally, an attorney should not be removed from representing a criminal defendant simply because a subsequent judge prefers to make the appointment.

Finally, the Summit County Common Pleas Court's proposed system does not comply with the Ohio Supreme Court Rules of Superintendence for the Courts of Ohio. Rule 8, governing appointment of attorneys, requires that "[e]ach court or division of a court shall adopt a local rule governing appointments made in the court or division." The local rule should include the procedure for selecting appointed attorneys from a list. The Summit County Common Pleas has not promulgated any such rule regarding the proposed procedures. Presently, each municipal court has a local rule governing the procedure for appointment of attorneys at the municipal court level.

The Summit County municipal court judges will continue to appoint attorneys in felony cases pursuant to their established local rules. The municipal court judges have an obligation to appoint a qualified attorney at all stages of a criminal proceedings. The Ohio Rules of Criminal Procedure confers jurisdiction on the municipal courts at the time that a criminal defendant has the right to have an appointed attorney.