

STATE COURT P.2/4 7-11-10

**CONSIDERATIONS CONCERNING AN APPELLATE DIVISION
OF THE SUPERIOR COURTS**

- I. General laws and rules of appellate practice which are presently applicable to civil and criminal cases appealed from both the superior and state courts promote uniformity and in most all cases involves only a single review.
- II. The creation of an Appellate Division of the Superior Courts to review misdemeanor appeals from the state courts perpetuates non-uniformity with respect to appeals from the two (2) constitutionally created trial courts ^{of} record within this state:
 - (A) Criminal Appeals:
 - (1) Superior Court
felonies and misdemeanors - Court of Appeals and/or Supreme Court
 - (2) State Court
misdemeanors - Appellate Division of the Superior Courts; subject to review by certiorari or discretionary application to Supreme Court or Court of Appeals
 - (B) Civil Appeals:
 - (1) Superior and State Court - Court of Appeals and/or Supreme Court
- III. Review by an Appellate Division of the Superior Courts perpetuates inequities in appellate review for offenders convicted of misdemeanor offenses in state courts and conviction of misdemeanor offenses in superior courts.
- IV. Review of criminal misdemeanor cases from the state courts by an Appellate Division of the Superior Courts is simply an expansion of the existing appellate review process which will result in a duplication of services where certiorari or discretionary review is granted.
- V. There is no basis to assume that a three (3) judge volunteer panel composed of superior and state court judges possess any more judicial knowledge, experience, familiarity with the legal issues presented and common sense than the state court judge who originally handled the case.
- VI. Volunteer judges of an Appellate Division of the Superior Court would not be accountable to the electorate as are Court of Appeals and Supreme Court judges.
- VII. Part-time volunteer state and superior court judges would be confronted with multifarious conflicts of interests in connection with their review of criminal misdemeanor cases.

- VIII. An expanded appellate court structure does not take advantage of economies of scale which become applicable by consolidation of services through a single court.
- IX. A multi-judge court is inherently more efficient than the operation of separate courts in that multi-judge courts permit economies in the deployment of court personnel and should be able to handle more cases than an equal number of judges operating in separate courts.
- X. The creation of an Appellate Division of the Superior Courts is inconsistent with the notion of judicial economy and will result in a significant cost to operate a statewide or district office to administratively handle judge and case assignments. Additionally, the cost for office space, equipment, law clerks, and secretaries for each designated volunteer judge will be significant.
- XI. Efforts to effect change and improve efficiency in the judicial system must be compatible with the protection of rights of individuals in our society who are convicted of crimes.
- XII. The present appellate court structure provides for uniform review of issues for criminal cases by a specialized, eminently qualified body of judges who have been entrusted by the electorate to be a final arbiter of judging and determining legal decisions by lower courts.

POSSIBLE ALTERNATIVES TO AN APPELLATE DIVISION OF THE SUPERIOR COURTS

- I. An increase in the present number of judges on the Court of Appeals appears to be the best solution to reduce crowded dockets and provides for the following:
- (A) continued uniformity between the superior and state courts for appellate review of criminal and civil cases;
 - (B) continued judicial review by a specialized body of judges who are determined by the electorate to be qualified to be the final arbiter of legal decisions made in the trial courts of this state;
 - (C) decreases the potential for conflicts of interest in connection with the judicial review of criminal misdemeanor cases;
 - (D) the operation of a single reviewing court which is more efficient than the addition of another tier to the reviewing process;
 - (E) the most cost effective approach to resolution of the current problem; and
 - (F) promotes the protection of rights of individuals who are convicted or crimes.

- II. Redefine a portion of the caseload to go exclusively to the Supreme Court.
- III. Revise the discretionary appeal provisions and not provide for discretionary appeals until the case is concluded.
- IV. Bar direct appeals of a partial summary judgment.
- V. Review the constitutionally ^{and} feasibility of allowing direct appeals in criminal misdemeanor cases only where a period of confinement is imposed. Otherwise, such appeals would be discretionary.