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Utah Supreme Court Justice Supplied with Incorrect Information as Effect of Removing Official Court Reporters from District Courts

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FOR IMMEDIATE RELEASE

Utah Supreme Court Justice Supplied with Incorrect Information as Effect of Removing Official Court Reporters from District Courts

February 15, 2010 (Vienna, VA)—When Utah’s Judicial Council decided to eliminate court reporters from district courts, the rationale was that it would save the courts money. Recently, however, Utah’s Supreme Court Justice, the Honorable Christine Durham, suggested in comments to legislators that another result of changing to digital audio recording in lieu of stenographic reporters was that the time for producing a written transcript of court proceedings under the new system had been reduced from 138 days to 16. This statement is entirely false, yet when it was reported by none other than the chief justice of Utah’s Supreme Court, the incorrect statement would seem to carry some level of legitimacy that it most certainly does not deserve.

In an era of budget-cutting, latching onto efficiencies and cost savings certainly is in vogue, but when it comes to maintaining the integrity of the judicial process, the people of Utah are deserving of an impartial review of the facts, not an administrative office that grabs an easy sound bite without regard to its accuracy to curry favor with legislators and the public. In this case, Utah’s Administrative Office of the Courts (AOC) in all likelihood was fed inaccurate information from the appeals court that now coordinates transcript production, and then passed along this reckless piece of misinformation to Chief Justice Durham, which she unwittingly further legitimized by using in her speech to Utah legislators on January 25th.

The experience of Utah court reporters with regard to the delivery of written transcripts upon request is entirely different. “I have years’ worth of invoices from the 1st and 2nd District Courts that show the actual number of days it took to get a transcript prepared from the time the payment arrangements were made until completion and it is nowhere close to what the AOC is reporting,” said Laurie Shingle, RPR, CMRS, one of the official court reporters who lost her job in Utah. “I can remember only THREE

TIMES in the last few years that we needed to ask for an extension beyond 30 days, so only three times in that period did it take us more than 30 days to prepare a transcript.”

Shingle wishes to emphasize that when the Judicial Council decided to cut 17 official reporters from the state’s payroll last summer, she was informed that the reason was entirely financially based. There was no indication that the decision was based on delays caused by official reporters delivering transcripts in anything less than a timely manner. Indeed, electronic recording – including analog video, digital video, and digital audio recording – has been part of the judicial process in Utah for the past ten or 12 years. To suggest that the elimination of 17 official reporters could have expedited transcript production is not accurate, according to Shingle.

How is it possible that the data cited Chief Justice Durham could be so wrong? For starters, says Shingle, the AOC (and thus the appeals court) may have been comparing apples and oranges. Contributing to any delays that took place prior to the termination of the district courts’ official reporters, as it turns out, was the fact that official court reporters in Utah were not allowed to BEGIN production of a transcript until the state first collected payment for the transcript from the parties placing the order. Ironically, it is this safeguard put in place by the state to ensure the courts were paid for the services provided by the reporters, which now is being used against reporters. Beyond that, it simply is ludicrous to suggest that a transcript could be created from an audio file more quickly than a stenographic reporter could create from his/her notes.

“If you’re transcribing a first-degree felony trial from digital audio,” says Shingle, “it’s going to take the court reporter two to three times as long as it would have taken for the same court reporter to produce a transcript he or she were present for the start of the process.”

Again, Shingle points out that audio and video recording has had a presence in Utah’s district courts for ten or 12 years. Stenographic reporters only were working on first-degree felony and capital cases in recent years. “The only difference now is that, since July, official reporters haven’t been covering the first-degree felony trials,” she said. “Even if the appeals courts could say that there was a drop in transcript production time in first-degree felony trials from July to December, they would be working off so few a number of cases that the data would be insignificant. And it’s very unlikely that data is correct anyway.”

Audio files, by their nature, are filled with inaudible and unintelligible segments, which makes a true verbatim transcript impossible and which is a hallmark problem for digital audio. Reporters find it interesting that the Judicial Council still finds it necessary to use stenographic reporters in capital murder cases. If courts stand by stenographic reporters as the gold standard for capital cases, how can they settle for something less in other complex judicial situations such as first-degree felony cases?

In Utah, another perplexing decision was to give appeals courts the responsibility to process any requests for transcripts from the lower courts, even when a court case has not been appealed. It is not intuitive for anyone involved in the judicial process that a transcript should be ordered from the appeals court and it is just another example of how, in the name of saving money and allegedly adding efficiencies to the system, that hasty decisions that compromise the integrity of the judicial process can be made using information that is demonstrably false.

While there will be short-term pain for the official court reporters who have lost their jobs and their families, the ultimate victims of Utah’s decision to eliminate official reporters’ jobs will be the litigants, the judges, and the attorneys who rely on written transcripts to ensure the sanctity of the judicial process.

So, if Utah’s Judicial Council wanted to reduce the time from trial to written transcript, there most

certainly were administrative improvements that could have been made and impediments that could have been removed to make that happen. If they were looking for ways to reduce overall costs, court reporters would have had some ideas. And if they were looking to find ways to enhance the quality of the court record, court reporters might have some thoughts on that as well.

Instead, operating on inaccurate information from the AOC, the Judicial Council decided to eliminate the positions of court reporters and now have a system in place with digital audio that will take more time, not less, to create a written record; and that, unquestionably, will result in legal transcripts that are less accurate than those created by a stenographic reporter. This puts the entire judicial process in substantial jeopardy, but at least the AOC found a nice sound bite for the public – that that its actions not only have saved money, but also brought efficiency to the process – regardless of whether it's true.

About NCRA

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