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Glenn A. Grant
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Re: Comments on Proposed Rule Amendments relating to Discovery and jailhouse informants

Greetings,

Please be advised that I am a paralegal within the New Jersey State Prison and I want to make a few comments on this rule proposal and a few questions in the event that this proposal comes to fruition. First and foremost, the inmate population is ecstatic to see that this proposal is in the works as it comes subsequent to AG Directive No.2020-11. As a paralegal, I have worked on a plethora of cases where the defense was powerless against the "colored" testimony of a jailhouse informant. In some cases, the verdict hinged on the credibility of a jailhouse informant. With this proposal come many concerns on the part of the prosecutions adjustments to this proposal.

This proposal is properly placed within R.3:13-3 (paragraph K). I do agree with the committee that the jailhouse informant

should have its own category. They are special witnesses that sometimes tips the scale for the state. If this proposal is promulgated within the New Jersey Rules of the Court would there be other amendments within The New Jersey Rules OF Evidence especially 104(a) and 602? This comes by way that the prosecution withholds there knowledge of a jailhouse informant until after trial began to circumvent the proposed paragraph (k).

I brought this to your attention because I have run across this problem in a few trial transcripts that I have read. Would this proposal heighten the amount of "Discovery" i.e. "Brady" violations that already exist because of the volume of information that has to be furnished to the defense about the jailhouse informant?

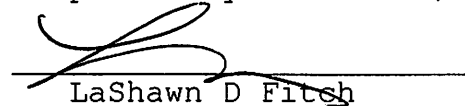
On another note, if the proposal moves forward - how will that effect the inmate population that were not furnished with the information that is proposed in paragraph (k) of R. 3:13-3? Will the proposal have retroactivity where a offender can petition the court for post-conviction relief on the grounds of a discovery violation? The AG directive (2020-11) went into effect on November 1, 2020; will this proposal ultimately supersede the directive? If so, I believe that other areas such as New Jersey Rules of Evidence should have a subsection dealing with jailhouse informants as cited above. This would protect the integrity of the trial where the state "coincidentally" receives information from a jailhouse informant mid-trial. In this scenario, the

state may argue that they were surprised by the information from the jailhouse informant and could not furnish the defense with the materials of paragraph (k).

With proposals in New Jersey Rule of Evidence 104(a) would further address the scenario where the witness can be bared from testifying or a adjournment until all conditions are met within paragraph (k). In the proposal, the definition of a jailhouse informant is one who "lacks personal knowledge", in which a proposal to N.J.R.E. 602 (Lack Of Personal Knowledge) should also be discussed to protect the integrity of the proceedings. I humbly ask that once your office receives this letter that you send receipt of confirmation and further assistance on this matter.

Thank you for your time on the matter.

Respectfully Submitted,


LaShawn D Fitch