

Supreme Court of Nevada

ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



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MEETING SUMMARY

Commission to Study Best Practices for Virtual Advocacy in Nevada's Courts

February 18, 2022

01:30 PM

Summary prepared by: Margarita Bautista

Members Present

Justice James Hardesty, Co-Chair
Justice Douglas Herndon, Co-Chair
John Arrascada
Judge Rebecca Burton
Judge Tara Clark Newberry
Judge Paige Dollinger
Judge Kriston Hill
Darin Imlay
Judge Tierra Jones
Christopher Lalli
Alicia Lerud
Judge Cynthia Leung
Judge Lori Matheus
Leslie M. Nino Piro
Jennifer Noble
Judge Melissa Saragosa
Judge Alan Tiras
Judge Natalie Tyrrell

Guests Present

William Wright

AOC Staff Present

Jamie Gradick

I. Call to Order

- Justice Hardesty called the meeting to order at 1:35 p.m.
- Ms. Gradick called roll; a quorum was present.
- Opening Comments
 - Justice Hardesty opened the meeting by thanking attendees for participating in the Commission.
 - Justice Hardesty provided a brief overview of the Commission's creation and the challenges and benefits of virtual hearings.

- Justice Hardesty asked attendees to introduce themselves, to provide a brief explanation of their experience with virtual advocacy, and to offer suggestions regarding what issues on which the commission should focus.
 - Mr. Arrascada stated he looks forward to developing uniform rules. Additionally, virtual hearings when conducted must keep in mind Chaparro, the Supreme Court case, and the 6th Amendment right for clients and the right of confrontation.
 - Judge Burton stated she would love to see consistent procedures put in place by the commission. Judge Burton also stated that being in a courtroom is a learning tool for new attorneys because it allows them to gain the experience needed to be able to settle cases outside of the courtroom as opposed to in front of a judge.
 - Judge Clark Newberry would like the commission to consider the difference in how virtual cases are conducted in civil cases versus criminal. The real challenge she foresees is how the commission is going to make uniform rules while allowing for flexibility.
 - Judge Dollinger would love to see a hybrid model because, in certain circumstances, in-person hearings are needed but for others, virtual hearings are a better route. Judge Dollinger agreed that the commission should work to achieve uniformity, consistency and balance for virtual hearings.
 - Judge Hill stated she preferred in-person hearings because in Elko, the internet connection is unreliable, and hearings can be disastrous for pro pers as well as for counsel. The only time she prefers virtual hearings is for guardianship hearings because it allows her to see where the senior is and how they are doing. She echoes what has been said about uniformity and consistency.
 - Mr. Imlay stated that virtual hearings allow for equal access to hearings because, sometimes, clients cannot attend due to transportation issues. Virtual format also allows for efficiency as attorneys can continue to work while they wait for a hearing to start.
 - Judge Jones stated she would like to see a hybrid model put in place because, from her experience with the pandemic, virtual appearances are great for routine items and beneficial for individuals who are incarcerated at NDOC. Virtual appearances are also great for witnesses who live out of state or out of country who testify at evidentiary hearings, and it saves taxpayers money. On the other hand, Judge Jones understands that, for certain hearings, it is best to have them in person.
- Justice Hardesty asked both Judge Clark Newberry and Judge Jones if they perceived if there was a benefit from video communication with inmates from the Nevada prison without having to bring them to the courthouse.
 - Judge Jones responded that it would be very beneficial for inmates to have the option of appearing virtually for routine hearings as there can be challenges with transporting inmates to the courthouse.
 - Judge Clark Newberry echoed what Judge Jones stated and added that continuances are often issued due to various factors involved with inmate transportation. Judge Clark Newberry stated that she would prefer virtual appearances for those who are current inmates at NDOC.
- Justice Hardesty extended the above question to Judges Burton and Dollinger.
 - Judge Burton and Judge Dollinger both stated that access to court hearings for those incarcerated have been great so far. Judge Burton stated that although it is great, because of the population there is a competition beginning for those spots in the

Eighth Judicial District. Judge Dollinger went on further to say that access for those in the prison system has been great especially to court hearings but sometimes unfortunately those inmates do not have access to meetings with their attorneys prior to hearings and she would like to see a change in that.

- Justice Hardesty informed everyone that he would be circulating an article detailing NDOC processes for inmate hearing preparation.
 - Mr. Imlay stated that having unfettered access to his clients would be of benefit to both clients and the system and would speed up the process; lack of access to clients is a challenge.
- Attendees continued with introductions and input on Commission areas of focus.
 - Mr. Lalli expressed agreement with the comments previously made by commission members and asked for clarification regarding how this commission's work would connect with the rules set forth by ADKT 424. Justice Hardesty stated the commission's work would, likely, extend or reconcile the created under the separate ADKT Order.
 - Ms. Lerud expressed appreciation for being appointed to the Commission; it will allow her to see what type of facilities, training, and staff will be needed to function in this environment.
 - Judge Leung stated that, pre-pandemic, her court had been doing video calls and so the transition was easier. She has seen that the pandemic made other judges in her jurisdiction appreciate the virtual hearings although she understands that defense attorneys and their clients prefer in person hearings. Judge Leung would appreciate uniformity because even within her own jurisdiction there is no uniformity right now with regards to policies for virtual hearings. Virtual hearings were also very helpful for the recovering community who have built a relationship with specialty court judges.
 - Judge Matheus stated she prefers virtual hearings because she has had a higher success rate for appearance and compliance. She also surveyed her community and most everyone agreed that virtual was better because virtual helped with transportation, budget and compliance issues. Virtual has also allowed her community more access to a bigger pool of attorneys who were not previously available.
 - Ms. Nino Piro stated that virtual appearances save time and money which are beneficial for everyone. It also allows for externs to be able to continue receiving their education. She also echoed the same concerns and struggles that had been previously mentioned.
 - Ms. Noble stated that she has taken notice that there is a potential for lack of confidentiality when virtual hearings are held, and defense attorneys need to speak with their clients but on the other hand transportation issues make it hard for in person hearings.
 - Judge Saragosa commented that, sometimes, virtual hearings can be detrimental because most of her cases involve the indigent community or members who are not savvy enough to be able to provide documentation prior to a hearing. She recognizes that virtual hearings, in certain circumstances, are better because they allow for those needing to be present for a short fifteen-minute hearing to appear without having to go through extensive court security protocols. Judge Saragosa also stated that virtual hearings reduce the cost of attorney fees.

- Judge Tiras stated he was a full supporter of technology and therefore supported his jurisdiction going virtual but also understood that not all jurisdictions have that capability and thus procedures need to be made that can accommodate all jurisdictions and areas.
- Judge Tyrell stated that virtual hearings are going to be key with the new bill, AB 424, deadline that will assist with weekend and late afternoon hearings. Judge Tyrell understands that a hybrid model seems to be the best option as there are quite a few hearings that can be done virtual but there are two types that need to be done in person including trials and preliminary hearings.
- Justice Hardesty tasked the commission membership with completing the following tasks in preparation for the net meeting:
 - Compile a list of the perceived pros and cons of virtual hearings as it pertains to your jurisdiction.
 - Canvass individual courts for IT and/or connectivity challenges or needs.
 - Survey colleagues and their views on this topic.
 - Compile a list of what types of hearings should be heard virtually and which should be heard in-person.
- Justice Hardesty asked that the response to the above request be sent to himself, Justice Herndon and Ms. Gradick by March 25, 2022.
- Ms. Gradick will distribute a survey to gauge membership availability for the next meeting.

II. Public Comment

- There was no public comment.

III. Review of Resources and Reports

- Tabled for future meeting.

IV. Review of Local Orders, Rules, Policies/Procedures

- Tabled for future meeting

V. Commission Scope and Mission Discussion

- Tabled for future meeting

VI. Other Items/Discussion

- Rule Approval Process and Next Steps.

VII. Next Meeting

- TBD

VIII. Adjournment

- The meeting was adjourned at 3:10 pm.