

Defense Bar

Seething Over High Bonds

Group questions whether judges know what they're doing

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Members of the Connecticut Criminal Defense Lawyers Association say they are collecting transcripts and other relevant information, including judges' names, that would illustrate abusive bail bond practices in the state.

CCDLA President Hope Seeley said that members have recently begun monitoring bail bond abuses as part of an informal study in order to present a report to the Judicial Branch, possibly by early next year.

"We will be gathering data for quite some time," said Seeley, of Santos & Seeley in Hartford.

Seeley said in the past year members have complained about judges and bail commissioners setting outrageous bails in criminal cases, and wanted to become more proactive with the issue.

Other CCDLA members, some of whom declined to have their names used, said part of the problem rested with newer judges, many whom have little or no criminal experience, starting out in the geographical area (G.A.) courts.

"I don't think the G.A. is the [right] training ground for these judges," one attorney said of new appointees.

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CCDLA Studying Judicial Indiscretion In Setting Bonds

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Through a spokesperson, Chief Court Administrator Joseph Pellegrino and Deputy Chief Court Administrator John Roman refused comment.

Rhonda Stearley-Hebert, manager of communications for the Judicial Branch, also declined comment except to provide information on training guidelines for new judges in a criminal court.

Following the swearing-in, all newly appointed judges begin a "comprehensive education course," which includes discussion on criminal law topics such as bail, domestic violence and sentencing.

In addition, new judges work on skills that enable them to "practice fairly, effectively and efficiently" on the bench and participate in independent study assignments, including reading or writing on topics such as decision making in bail.

Some CCDLA members, such as Tara Knight, of Knight, Conway & Cerritelli in New Haven, suggested judges are using bail as a punitive measure, rather than adhering to guidelines under the Practice Book.

"It seems like judges, particularly the newer ones, are forgetting the purpose of bail and forgetting the presumption of innocence," said Knight. "They [judges] look at the crime as a committed fact. They are looking at bail as punitive, rather than as a way to guarantee a person's appearance in court. There is a real danger putting judges that have no criminal law background in these [courts]. They have no perspective... no experience to draw on. It really... people's liberties."

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Seeley said one of the most recent egregious examples of a judge setting high bond was in the case of *State v. Paolella*. In the case, John Paolella, one of two defendants working for a bail bond company and accused of writing \$4.8 million in fraudulent bail bonds, had no prior record and clear ties to the community. The judge in the case, a former federal tax prosecutor with experience also in family law, set bail for both defendants at \$2.5 million.

"That one jumps off the page for a bond being set for purely punitive reasons," Seeley said, "rather than the factors that a judge is mandated to follow under the practice book."

Paolella's attorney, Hugh Keefe, of Lynch, Traub, Keefe and Errante, called Superior Court Judge Holly Abery-Wetstone's reluctance to significantly lower his client's bail "ridiculous" and "an abuse of judicial discretion."

After Abery-Wetstone lowered Paolella's bail to a \$1.5 million cash or surety bond, she then lowered co-defendant Christopher Morley's bond to \$500,000.

Keefe said he is in favor of the CCDLA study, which looks at what he described as a "big issue with the criminal defense bar."

"The problem is the ignorance of some judges about the concept of setting bond," said Keefe, chairman of the state Judicial

Selection Commission. "Some judges are imposing bail without knowing what they are doing."

In determining what conditions of pretrial release to impose, judges consider what will ensure a defendant's appearance in court. Before making a decision on bond, judges hear from prosecutors, the defense, bail commissioners and, on occasion, other parties.

Judges also take into consideration things such as the nature of the crime, past criminal record, family ties, financial resources and a person's character.

Seeley said the CCDLA took immediate action recently after it confirmed reports that a judge was repeatedly setting high bonds for defendants. She said members met with an administrative judge to rectify the problem.

She declined, however, to name the people, or the court location involved, or to provide any more details.

"There seemed to be a repeat problem and then a confirmed problem with a judge setting bonds that were ridiculous," Seeley said.

Waterbury attorney Timothy Moynahan, a member of the CCDLA's new ad-hoc criminal justice committee, said the problem isn't so much with the judges themselves, but with their reliance on bond commissioners.

He said such reliance is flawed in that most bond commissioners are not sufficiently trained and were often thrown into such positions.

"These people don't exercise independent judgment," Moynahan said. "They don't know what independent judgment is. It is a real weakness in the system."