



NEW JERSEY STATE BAR ASSOCIATION

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June 12, 2020

Honorable Stuart Rabner, Chief Justice
New Jersey Supreme Court
Hughes Justice Complex/ P.O. Box 037
Trenton, NJ 08625-0037

Re: Municipal Court/Plea by Mail

Dear Chief Justice Rabner:

Thank you for your efforts in re-opening New Jersey municipal courts. Despite the re-opening, the New Jersey State Bar Association (NJSBA) is cognizant of the encouragement to engage in pleas by mail whenever possible and of potential plans to expand the NJMC portal. There are some issues attendant to the plea by mail (PBM) process, however, as well as concerns about a potential expansion of the NJMC portal that we are hoping you may be able to resolve.

The NJSBA's municipal court practitioners advise that the PBM process is confusing, inconsistently applied, does not effectively permit the disposal of many municipal court matters, and does not meet the notification requirements concerning potential immigration consequences. Additionally, while we understand there may be an effort to expand the NJMC portal to allow for negotiated pleas, it does not appear that members of the bar (prosecutors or defense counsel) have been consulted in the development of that new portal. There are concerns about, among other things, the ability to properly advise defendants of their right to counsel and the ability of defendants to understand the ramifications of any plea that may be offered through the portal without counsel to explain them, particularly with regard to immigration issues. There are also concerns about whether it will be available to defendants who retain counsel and the ability of attorneys to access it. In light of these concerns, the NJSBA recommends changes be made to the PBM process to make it more effective and user friendly, and that municipal court practitioners be permitted to provide feedback on the expanded NJMC portal before it is implemented.

Specifically, the NJSBA recommends that the Court establish one uniform PBM form that is available in an interactive, electronic form that can be completed and submitted electronically to the appropriate court, where it will be accepted, at least in form. Currently, there are several different forms available, and each municipal court has its own guidelines and procedures for accepting PBMs. This makes it difficult for municipal court practitioners, who often practice in multiple municipal courts, to advise their clients and to abide by the appropriate procedure to resolve a matter.

In addition, a number of factors that are routinely present in municipal court matters, have the potential of making a matter ineligible for PBM. For example, matters where there is the potential for incarceration, where there is a victim/witness involved, or where there is the possibility of license suspension, community service or substantial fines are not currently eligible for PBM. Further, the issue of compounding penalties for multiple offenses could elevate cases that are considered “payable tickets” and make them ineligible for the PBM program. If there was an effective way to negotiate a plea with a municipal prosecutor, with appropriate advisements to defendants, victims and witnesses, the NJSBA believes many current ineligible matters could be eligible for PBM.

Finally, any PBM form and the resolution of any municipal court matter has to include a reference to potential immigration consequences as a result of the action, and ensure there has been an opportunity for a defendant to explore those potential consequences. While the current PBM forms require defendants to identify if they are legally residing in the United States, they do not contain adequate notice of potential immigration consequences.

In summary, the NJSBA respectfully requests that, with regard to the PBM process, the following changes be implemented: (1) a uniform PBM form be developed that is available in an electronic fashion that is appropriate to submit a plea to any offense and can be submitted to all municipal courts in the state; (2) the PBM form be amended to include a notice about potential immigration consequences and to advise defendants to make sure they understand those consequences before submitting the plea; and (3) guidance be provided about how more matters, like those described above, can be subject to the PBM process. With regard to an expanded NJMC portal, the NJSBA respectfully asks that municipal court practitioners be consulted about the details of any potential expansion and be provided an opportunity to provide feedback before it is implemented.

The NJSBA stands ready to assist the Court in endeavoring to respond to these requests and developing the forms and protocols that are sought.

Thank you for your consideration of these issues. Please do not hesitate to contact me if you require any further information.

Respectfully,

A handwritten signature in cursive script that reads "Kimberly A. Yonta".

Kimberly A. Yonta, Esq.
President

cc: Hon. Glenn A. Grant., J.A.D., Acting Administrative Director of the Courts
Steven Bonville, Esq., Chief of Staff
Domenick Carmagnola, Esq. NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director