



MAGISTERIAL DISTRICT COURT 15-4-03
CHESTER COUNTY, PENNSYLVANIA

JOHN R. BAILEY
MAGISTERIAL DISTRICT JUDGE

748 SPINGDALE DRIVE
EXTON, PA. 19341

May 2, 2019

Mr. Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee

Failure to Pay in Summary Cases

Dear Mr. Wasileski,

Last February 2018, I addressed a letter to you referencing Chester County's ability to find defendants indigent in Summary Cases. I have attached a copy as well.

I originally sent this letter as I am very much concerned with the increased case of those individuals that were unable to pay their fines. However, I now see another issue that seems to be problematic being associated with Collateral. Recently I was directed to an article published in the Reading Eagle on April 23rd (2019) titled

"District Judges in Berks County jail more people for lack of money than anywhere else in Pa".

www.readingeagle.com

I personally found the article quite disturbing and shocking as I thought the concept of a "Debtors Prison" had been abolished. The article contained a chart that detailed the number of cases in which an offender was jailed in every County in Pennsylvania ranking from highest to lowest. Although I was not particularly happy to see Chester County referenced with 70 cases in which an offender was jailed, I was completely appalled with Berks County and York County with 4012 and 2026, respectively, documented cases.

I don't require collateral in my court. Although some may be able to post, nevertheless, no one is denied a hearing because of their inability to post. I never want anyone to be in fear of not only coming to my court, but failing to respond to a citation (traffic or non-traffic) because of a lack of collateral money. Actually, I have often wondered how many summary warrants end up being issued in this Commonwealth in situations where an individual is too scared to respond due to not having the required collateral?

Referring back to my letter of 2018, in Chester County, I realize we are extremely fortunate to have this ability sanctioned by our President Judge. What is important here is not necessarily finding an individual indigent through a Payment Determination Hearing (PDHrg), but having the ability to examine the individual's financial issues, and to determine most importantly, if they are on public assistance. With regards to PDHrgs, the MDJ has no guidance or sanctioned forms that are made available. But because of my interest in this process, and over a period of years I have come to modify the questions I direct to an individual. As we know everyone's financial concerns are different, however, with the ever growing issue of Food Insecurity in this country and especially in Pennsylvania, how does an individual who cannot afford to feed their family, be expected to acquire the funds to satisfy indiscriminately applied fines? This is a valid question even in the county of Chester which is considered by many to be the wealthiest county in the Commonwealth. On the contrary, I've experienced many individuals in my court, from my county who do not have the ability to post.

On the other side, over the course of my tenure, I've seen problems arise when a court offers a payment plan and sets the "minimum" amount for the payment. How is this number officially derived and through what calculations? If an individual can't afford to put food on the table how are they going to make payments on a payment plan? My opinion, this is basically setting up the very individuals who need the help of the court for failure.

MDJ's have options that help to avoid committing an individual to jail for failure to pay. In some cases, and after a PDHrg, I have continued the hearing for a status check (usually 6 months) to determine the state of an individual's financial abilities and potential employment opportunities.

I've heard of the potential for an "administrative hold" which would allow the court to revisit an individual's status after two years and suspend the case indefinitely. This provision is an option I believe many Judges would welcome.

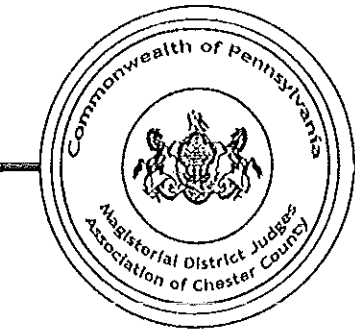
Let me be clear here, my actions and intentions are not to excuse those individuals who refuse to pay. My intent is, and always has been, to be able to assist those cases where

an individual cannot afford the costs associated with court process. Due process and Equal Protection are what a neutral and detached Magisterial District Judge should afford to everyone who comes before them regardless of the individual's income.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'John R. Bailey', with a large, sweeping flourish extending to the left.

John R. Bailey
Magisterial District Judge
15-4-03



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**Commonwealth of Pennsylvania
Magisterial District Judges Association of Chester County**

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Honorable Analsa
Sondergaard*

February 23, 2018

Mr. Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee

During my term on the bench, I have noticed an increase of people who are unable to pay and who fall thru the cracks of society when conducting a Payment Determination Hearing (PDHrg). This affects men, women and children regardless of the County's wealth. There have been incidents where that individual who now stands before me was once gainfully employed and had the ability to handle any debts or expenses that he or she might have incurred. As a Magisterial District Judge in Chester County, we have been given one tool that supports both the individual who is facing indigence and a smoother running court.

Chester County Magisterial District Judges have an authorized policy which allows the MDJ, at the conclusion of a PDHrg, to administer the proper adjudication by declaring one Indigent.

When I conduct a PDHrg, I refer to the Living wage calculation for Chester County, provided by the Massachusetts Institute of Technology. This resource is available for every county in the Commonwealth.

(livingwage.mit.edu/counties/42029)

Here in Chester County, a suitable living wage is roughly \$50,000 for (1) Adult with (1) child. Wages below this figure makes life barely sustainable.

The Living Wage Calculation for Chester County, Pennsylvania is:

<u>Hourly Wages</u>	<u>1 Adult</u>	<u>1 Adult w/1 Child</u>
Living Wage	\$11.43	\$23.06
Poverty Wage	\$5.00	\$7.00
Minimum Wage	\$7.25	\$7.25

The living wage shown is the hourly rate that an individual must earn to support his or her family, if they are the sole provider and are working full-time (2080 hours per year)...

Needless to say these statistics are quite alarming, and I strongly urge other MDJ's to do the math next time conducting a PDHrg. As importantly those who fall between the poverty wage and the living wage range typically fail to qualify for any County or Federal services.

Sadly, some will never get out of the poverty cycle if they continue in their present job. Another alarming factor in Chester County which I consider is the following:

- ❖ On any given day in Chester County, there are 34 families waiting for housing assistance
Source; Connect Points of Chester County
- ❖ Single white Males top the list for Homeless individuals in Chester County as well.
(attributed to Drug addiction, mental health issues, and veteran assistance needs)
Source; Summary of the Fund for Chester County Women and Girl, 2015 Blue Print Report

With regards to our ability to proceed with the determination of indigency, we are guided by a precedent set by past practices from two former President Judges who have given us the authority through the following "administrative orders"

- District Court Operational regulation 20-1993- authored by Chester County President Judge Leonard Sugerman
- District Court Operational Regulation 2-2005- signed by Chester County President Judge Paula Ott (this order 2-2005, replaced District Court Operational order #20, however the wording and authority was the same).

"At any time a Magisterial District Judge sitting in Chester County shall deem it appropriate, he or she may, on motion of counsel or upon his or her own motion, declare fines, costs and restitution arising out of summary prosecutions non-collectable because of the indigence of the defendant and thereafter closed the case.

The District Judge shall make note upon the file that the case was closed for the reason that the fines, costs and /or restitution are uncollectable due to the defendant's indigence." Dated March 22, 2005-President Judge Paula Ott.

As a result of this option, our court dockets tend not to be burdened with the fines and costs which will never be satisfied.

I have spoken with my peers throughout the Commonwealth, and have addressed this topic of concern in our quarterly State meeting(s) held in Harrisburg. The issue, of course, is not isolated to just Chester County but impacts the entire state.

If a Magisterial District Judge decides to explore the total picture as I have outlined, it most definitely tends to make the PDHrgs a more involved process. In reality, I have come to the realization that we need to listen to and evaluate the information of the individual who is appearing before us in its entirety. After all, and in all fairness this is the proper and thorough way to proceed.

I hope this information may be of future assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "John R. Balley", with a large, sweeping flourish underneath.

John R. Balley
President
Magisterial District Judges Association of Chester County

Attachments: District Court Operational Regulation No. 20-1993
District Court Operational Regulation 2-2005
District Court 15-4-03 Payment Determination Hearing (Rule 456)
District Court 15-4-03 Non-Collectible Form-Indigence