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To: [RulesCommittee](#)
Subject: OPPOSE PROPOSED RULE 455
Date: Monday, June 28, 2021 2:35:15 PM

As a part of Proposal 20-09, Proposed Rule 455 applies to CRIMINAL cases and should be opposed. It requires each party to file a certified inventory list of the party's pretrial, trial and post-trial and sentencing exhibits within SEVEN days after sentencing, plus a lot more.

As a lawyer who does about 25-50 trials and sentences per year, this is ONEROUS and seems designed to have the lawyer take on the role of CLERK. The chances of an appeal in any of these cases is extraordinarily rare. Further the amount of work involved would needlessly increase the fee one would have to charge to complete a trial.

Also, if a lawyer fails to comply with this new Rule can they be held in contempt? Or would there be a ground for ineffective assistance of counsel?

I can only imagine the daunting task this will be for the State's Attorney's office.

If anything, this rule should be limited to persons who are sentenced to PRISON or something more than the small-time felony DUI, theft or driving while revoked. Another method would be to limit this Rule to cases where an appeal has already been filed, instead of seven days after sentencing.

It reads as follows:

Rule 455. Reserved Filing of hearing and Trial Exhibits

(a) Filing. No later than seven days after sentencing, each party shall file with the clerk of the trial court: (i) a certified inventory list of the party's pretrial, trial, post-trial, and sentencing exhibits by exhibit number or letter with description of the exhibit (e.g., "photograph," "DVD," or "document"), stating whether the exhibit was admitted into evidence; and (ii) its offered pretrial, trial, post-trial, and sentencing exhibits marked with exhibit number or letter, including exhibits not admitted into evidence. The inventory shall be signed by an attorney or the pro se litigant, certifying its correctness.

b) Service. Each party shall serve a copy of its certified inventory list on the parties of record.

(c) Extension of Time. The trial court may grant a reasonable extension of time within which to file the certified inventory list and exhibits.

(d) Trials with Codefendants. In the case of joint or severed trials of one or more codefendants in which only one copy of an exhibit was offered or admitted against more than one defendant, the State shall file the State's original exhibit in one defendant's case and a copy, so marked, in the applicable case(s) of the other defendant(s). In the case of physical evidence or oversized exhibits, a photograph of the original exhibit can be filed in the applicable case(s) of the other defendant(s).

(e) Sanctions. The rule's requirements are mandatory and not directory. Failure to comply with the requirements may result in sanctions against the noncompliant attorney or the pro se litigant.

(f) Petition to Withdraw Exhibits. Any party may petition the trial court to withdraw one or more exhibits upon good cause shown. If the trial court grants the petition, the clerk of the trial court shall photograph or photocopy the exhibit(s) withdrawn by the party and place the

photograph or photocopy in the record with a marking identifying the date the original exhibit was removed and the party who removed it. The proponent of the exhibit is not responsible for maintaining the care of custody of any exhibit once released to a third party pursuant to court order.

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