

COURT OF COMMON PLEAS



THIRTY-NINTH JUDICIAL DISTRICT OF PENNSYLVANIA
FRANKLIN AND FULTON COUNTY BRANCHES


SHAWN D. MEYERS
PRESIDENT JUDGE

Franklin County Courthouse
157 Lincoln Way East
Chambersburg, Pennsylvania 17201
Telephone: (717) 261-3844
Telefax: (717) 261-3847

Fulton County Courthouse
201 North Second Street
McConnellsburg, Pennsylvania 17233
Telephone: (717) 485-3301
Telefax: (717) 485-5568

MEMORANDUM

TO: 39th Judicial District Board of Judges
Magisterial District Judges
Mark Singer, District Court Administrator
Matt Fogal, Franklin County District Attorney
Casey Bogner, Franklin County Public Defender
Conflict Counsel
Court Reporters

FROM: Shawn D. Meyers, President Judge 

RE: Preliminary Hearing Recordings and Transcripts

DATE: September 23, 2020

Recently the court has received multiple motions from the Franklin County Public Defender's Office seeking the approval of a court stenographer to attend preliminary hearings. The motions also request that the stenographer automatically transcribe the proceedings and provide a copy of the transcript to both the defense attorney and the Commonwealth with the costs being paid by the County of Franklin.

For many years Central Court has been conducted within the Franklin County Courthouse. At the time of preliminary arraignment, a defendant who is represented by the Public Defender's Office, Conflict Counsel or court-appointed counsel and seeking a preliminary hearing could ask that one of the court reporters employed by the court and having an office in the courthouse could transcribe the proceedings. This practice was born out of availability and convenience as opposed to any set policy by the court or Court Administration.

With the adjustments made to Central Court in response to the COVID-19 pandemic and judicial emergency, preliminary hearings are being held in both the courthouse and at Magisterial District Court offices.

Under Pennsylvania Rule of Criminal Procedure 452(C)(5), a Defendant may "make written notes of the proceedings, or have counsel do so, or make a stenographic, mechanical, or electronic record of the proceedings."

Nothing within the rule mandates that the method of recording a preliminary hearing be exclusively made by a court employed stenographer and the automatic creation of a transcript. A survey of the other Judicial Districts in our region reveals that we are the only county providing a stenographer with any frequency or regularity for preliminary hearings. The 39th Judicial District serves two counties. It is currently staffed with four stenographers, there are five Common Pleas Judges. The President Judge and Court Administration are making efforts to maintain our existing stenographic services, while also supplementing that service with digital recordings of proceedings that complies with rules implemented by the Administrative Office of Pennsylvania Courts and the Pennsylvania Supreme Court. To continue to provide automatic stenographer coverage for preliminary hearings is no longer an option regardless of the circumstances.

For the foregoing reasons, effective October 12, 2020, the court will not approve the automatic utilization of the four stenographers employed by the court for the recording of preliminary hearings. Like private counsel, the Public Defender's Office, conflict counsel and court appointed counsel must obtain alternate means to record preliminary hearings for most cases. For cases that involve homicide, death by drug delivery, rape or IDSI, the court will consider motions for the appointment of a stenographer for those purposes given the seriousness of the charges and the likelihood of trial. In those cases where a court employed stenographer makes a recording, a transcript will not automatically be produced. The parties will be expected to request a transcript with Court Administration consistent with the process set forth in Pa.R.J.A. 4007.

The court is aware that appellate court rulings provide that if a stenographer makes a record of a preliminary hearing, the transcript cost for a party appointed free legal representation must be paid by Franklin County at no cost to the Defendant. In those instances where a court employed stenographer produces a transcript, the court will continue to assure that the transcript will be provided without cost to the defendant's counsel.