

State of West Virginia



PAUL W. GWALTNEY, JR., JUDGE
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Seventeenth Judicial Circuit Monongalia County

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Sent via e-mail to dana.f.eddy@wv.gov only

Dana Eddy, Executive Director of Public Defender Services
WV Public Defender Services
One Players Club Drive, Suite 301
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RE: Appreciation

Dear Executive Director Eddy,

I am writing you an “open letter” to extend my appreciation for the services performed by the various court-appointed attorneys that have practiced before me over the last 18 months. When I was appointed by Governor Justice to serve as Circuit Court Judge in Division 1 of the 17th Judicial Circuit, it came after serving as a court-appointed counsel for only two and a half years. During my limited time performing court-appointed services, I gained a greater appreciation for the services that are performed by court-appointed counsel in juvenile and criminal proceedings. Public defenders and those that PDS contracts with sit with those on their worst days: the day one faces permanent incarceration (or for all intents and purposes permanent) or losing of one’s parental rights. Too often as a society we forget the valuable service that is performed by court-appointed counsel. Without individuals willing to take court-appointed cases, I believe that many of our constitutional rights that we hold so dearly would not be protected. I have heard some may not consider the work performed by court-appointed counsel as “public service” because they are paid for their services and are not fighting for the public good. In my view that is short-sighted and intellectually dishonest position. Prosecutors are paid, yet there can be no disagreement on whether they are engaged in public service. When a court-appointed counsel gets a law overturned as unconstitutional, gets a prisoner returned home from a wrongful conviction, or simply stands in court and argues for the State to meet its burden, there can be no quibbling that he or she is also engaged in fighting for the benefit of all in the future.

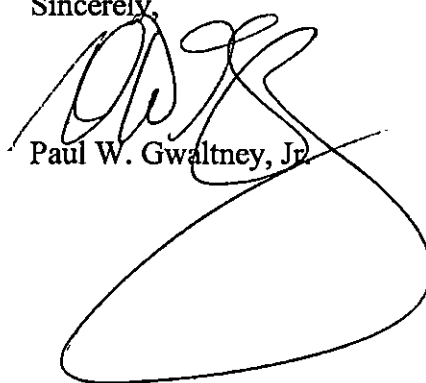
Often court-appointed counsel gets referred to in unflattering light. However, I write to you to offer my appreciation for those that go above-and-beyond. Time and time again, I have heard of guardians *ad litem* picking up clients and giving them rides, providing clothing, food or other necessities for children, providing presents, and other things that do not necessarily fall within the confines of what is expected. Additionally, during plea hearings, I always ask, “counsel how many times have you met with your client?” I will often hear, “countless phone calls” or “numerous meetings and several phone calls.” While the purpose of the question is clearly to stave off collateral attacks, I am often encouraged by the engagement attorneys have with their clients, as it indicates that they are recognizing the importance of the case to the individual client.

I was asked several months ago by a student whether I thought there was something in the justice system that needed to change. After reflection, I suggested that the justice system is no different than any industry: we just need people to care. Whether it is medicine, construction, engineering, manufacturing, or agriculture, society needs people to recognize that what each individual does matters and failing to perform a seemingly simple obligation can result in incalculable adverse unintended consequences regardless of the field of employ. As court-appointed counsel, counsel often experiences unreasonable demands or expectations from clients. Whether it is an abuse/neglect proceeding or a felony case, clients often demand that counsel take some step that results in the client snatching defeat from the jaws of victory. Often these unreasonable expectations or demands arise from client's addiction, misunderstanding of the law, or mental impairment, but it places counsel in the position where he or she feels as though he or she is fighting with the client more than the prosecutor. Knowing all of this, court-appointed counsel continues to enter the fray on behalf of clients that may not appreciate the efforts or the results.

Because I know that court-appointed counsel is working hard to represent clients to the best of their abilities, I write to thank them for their work, and ask that you share this with them. I encourage counsel to continue the hard work. I recognize that sometimes clients are not respectful to court-appointed counsel's advice, but please keep giving it and keep working caring for your clients even when they do not care for themselves. It is a service that is valued (even if not by the client) and is valuable to our society. Without court-appointed counsel in abuse/neglect cases encouraging clients to enter substance abuse treatment, more children would lose parents. Without court-appointed counsel fighting suppression issues, the fourth amendment would be chiseled to the point of being as visible as the emperor's new clothes. Without court-appointed counsel taking on the seemingly indefensible and even those that have no defense, the right to counsel becomes meaningless.

I hope that everyone has a Merry Christmas and a Happy New Year!

Sincerely,



Paul W. Gwaltney, Jr.