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February 28, 2013

District Attorney Paul Czajka
Columbia County District Attorney
Columbia County Courthouse Annex
Hudson, NY 12534

Dear District Attorney Czajka:

On behalf of the District Attorney's Association of the State of New York ("DAASNY"), I write to express our support of your position in Czajka v. Dellehunt. The question at stake in this case – whether a party to a proceeding is entitled to a transcript of that proceeding – is one of statewide importance. Should the court vacate the decision of Judge Doyle, the impact would be felt across the state in every court “not of record,” including all village, town, and city courts. We believe the decision below should be affirmed because it was correctly decided, promotes justice, and serves the critical interest of open government.

As constitutional officers and officers of the court, District Attorneys are vested with the duty to prosecute crimes committed within their territorial jurisdictions. We are parties to every single prosecution in New York (save a few exceptions related to prosecutions by the Attorney General). Thus, we should be allowed full access to records generated as part of the prosecution of these cases. Indeed, Judiciary Law §302(2) recognizes that a District Attorney is entitled to stenographic minutes merely for the asking. There is no basis for denying access to these records for copying and transcription, and respondents have offered no good reason for doing so.

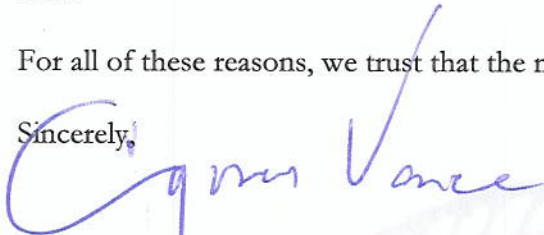
The Office of Court Administration (“OCA”), as Intervenor, nonetheless contends that District Attorneys are not entitled to recordings that are now mandated by 22 NYCRR 30.1 and Rules of the Chief Administrative Judge, Administrative Order 245/08. The purpose of this order was to advance the orderly taking of appeals from courts that are not “of record,” and Article 78 Petitions and Declaratory Judgment Petitions fall comfortably within the scope of this rule. OCA’s position would effectively deprive the District Attorneys, along with other litigants who seek copies of these recordings, of a meaningful opportunity to appeal an adverse ruling. A court would be able to shield recordings from public scrutiny for any reason whatsoever – a result plainly in tension with the purpose of the Administrative Order.

DISTRICT ATTORNEYS ASSOCIATION OF THE STATE OF NEW YORK

Moreover, if the position advanced by OCA and respondent were adopted, District Attorneys, and by extension the taxpayers, would incur needless additional costs, because DAs would be forced to place stenographers in justice courts if they cannot timely access recordings of proceedings. In fact, we understand that you have already had to resort to this expensive measure in order to transcribe the court sessions in the underlying case at issue here.

For all of these reasons, we trust that the motion to vacate will be denied.

Sincerely,



Cyrus R. Vance, Jr.

