



Grant County Circuit Court

BRANCH II

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March 18, 2019

RE: Rule Petition 19-01 Making the Record Committee Recommendation

Dear Honorable Justices of the Supreme Court,

I am submitting public commentary relating to Rule Petition 19-01, records pertaining to court reporting. I am the official court reporter for Grant County Circuit Court, Branch II. I am a DAR reporter using digital/audio recording equipment. I have operated as an official DAR court reporter since 2009. I was a member of the Making the Record Committee.

I write in support of the recommendation of the committee. We spent considerable effort discussing the options available for making the record in light of the declining available pool of stenographic reporters. The end product of the committee was our best effort to address the growing situation.

I have reviewed the submission from Sheri Piontek, also a member of the Making the Record Committee. In the first paragraph of her submission, she alludes to concerns from the DAR reporter on the committee. Since the DAR reporter on the committee was me, I wanted to write to specify my position, which is not entirely the same as Ms. Piontek's.

Since beginning as a DAR reporter in 2009, I have reported and produced the record for all types of proceedings. There has been no occasion where digital reporting was incapable of doing the job. I have reported well over 100 jury trials, the longest of which was a 7 day medical malpractice trial. I have reported everything from traffic and small claims intake to felony criminal trials to civil trials.

I am unsure of Ms. Piontek's point of reference, but I have not experienced the problems she recites in the second paragraph of her letter. I monitor my DAR in the courtroom. In the rare instance the equipment does malfunction, I stop the proceedings to get the equipment working again. This is typically a matter of a few minutes, and my courtroom has never had to terminate a hearing or postpone a matter due to DAR equipment. I monitor the litigants and attorneys speaking in the courtroom to make sure their voices are properly picked up by the DAR system. If not, I instruct them to do so, just as a stenographic reporter would do. I have no more occasion to have inaudibles in my transcripts than a stenographic reporter.

Ms. Piontek's observations in paragraph two appear to me to relate situations where Clerks of Court or other non-DAR reporters are operating the equipment. That is a concern I share. The circumstance where a clerk operates the DAR is very different than having an official DAR reporter. Unmonitored DAR is not sufficient to replace stenographic court reporting for the reasons identified in Ms. Piontek's letter.

When DAR is used as I use it -- for every day and in all matters -- the reporter must have adequate skills in the operation of the equipment and proper training. Especially at the beginning, the DAR reporter must have adequate technical support to get the system running at its peak effectiveness.

Unmonitored DAR does have its uses. Unmonitored DAR or clerk-monitored DAR are sufficient to handle low-transcript proceedings and for emergency situations where no other option is available. It is, however, very important to distinguish unmonitored DAR from what I do as an official court reporter.

Ms. Piontek's letter addresses the issue of proper certification of DAR transcripts. She is correct. The certification which I make to my transcripts is somewhat different than the certification made by a stenographic court reporter. A digital certification reads: "that I have carefully transcribed from and compared the foregoing pages with the original digital audio recording . . . and that is true and correct to the best of my ability." This is not a problem in my view. While a digital certification does not use the word "verbatim," because I am in the room hearing every word as it is being recorded, I feel my transcripts are verbatim.

Much of what Ms. Piontek mentions in her letter has merit. It is important, however, when considering her comments to understand the distinction between monitored DAR on one hand and clerk-monitored or unmonitored DAR on the other. Most of the problems identified by Ms. Piontek relate to clerk-monitored or unmonitored DAR, and particularly when proper training in the operation of the DAR is not provided to clerks who operate it in emergency situations. As we move into DAR in its various applications, it is, in my opinion, critical that the equipment be installed properly, that the people using the equipment are properly trained in its operation, and that the operators have access to appropriate technical support. I believe DAR can be a very effective means of making the record, but it must be done properly.

Thank you for the opportunity to share my thoughts.

Sincerely,

Nichole M. Wiest, CER, CET
Electronic Court Reporter, Branch II

cc: Hon. Randy Koschnick, Director of State Courts