



The State of Alaska

# Public Defender Agency

Samantha Cherot, Public Defender

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Meredith Montgomery  
Clerk of the Appellate Courts  
303 K Street  
Anchorage, AK 99501

Dear Ms. Montgomery:

I am writing to ask the Alaska Court of Appeals to enlarge the appellant's maximum extension allowed under Standing Order 12 in light of the Public Defender Agency's inability to meet its current deadlines. While I had hoped to meet with the court in person, I do not think this request can wait until after the COVID-19 pandemic, and I ask you to forward my written request to the court for consideration.

Over the past several years, the appellate section has decreased in size from twelve to eight lawyers, but its obligations have not. In addition to advising trial lawyers, both criminal and civil, members of the section are involved in the Agency's hiring and assisting the director with her responsibilities regarding pending legislation. And since last fall, because of capacity issues in the Anchorage trial unit, each appellate section lawyer has been responsible for two days of arraignment coverage approximately every five weeks. Beyond my experience as a line lawyer in the section, I do not know what, exactly, led to the current situation, but I know that the section cannot meet its obligations within the time frames specified under Standing Order 12.

To give the court an idea of the situation, there are currently eight lawyers in the section, including me. Two of those lawyers are new to appellate practice, need more time and supervision on each case, and are limited by their experience in the cases they can handle. Of the remaining six, five have requested extensions beyond the maximum allowed by Standing Order 12, and four of those are routinely requesting substantial (90-120 days) extensions. If I were to assign a case to one of the five experienced lawyers today, their current caseloads would require a due date between early August and early September - and that presumes the section does not receive an expedited case that takes priority over the current caseloads.

We have over 120 cases waiting to be assigned, with 45 having due dates (after receiving the maximum extension allowed under Standing Order 12) this calendar year. Twenty-five of those due this calendar year are due between April and August. Even with possibility of contracting some cases, we simply cannot meet the time frames established in Standing Order 12.

This court has been very considerate of the Agency's workload, and it is routinely granting extensions beyond the maximum allowed by Standing Order 12. While appreciated, the process of seeking an extension itself is time consuming, as the lawyer seeking the extension must explain how they have spent their time since being assigned the case, which may require details regarding work done months earlier.

For these reasons, I am asking the court to modify the maximum extension allowed under Standing Order 12. Given current caseloads and the number of cases awaiting assignment, I believe an additional 150 days is needed. Although this is longer than what the section's lawyers are currently requesting and beyond the initial maximum set by Standing Order 12, the requested time provides a much-needed cushion for the expected, but unpredictable, matters – bail appeals, petitions for review, petitions for hearing, and child-in-need-of-aid and civil commitment appeals – that divert work away from opening briefs in criminal cases.

I am proud of the representation the Public Defender Agency provides its clients, and regardless of the action this court takes, I will work with the section's lawyers on maximizing efficiency without sacrificing quality. I would be happy to speak with court by teleconference if it would like to discuss this request.

Thank you,

/s/Renee McFarland

Renee McFarland  
Deputy Public Defender

cc: Tamara de Lucia, Office of Criminal Appeals  
Brooke Berens, Office of Public Advocacy