



DIVISION ONE  
FILED: 12/31/2014  
RUTH A. WILLINGHAM,  
CLERK  
BY: JT

IN THE  
COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

IN THE MATTER OF: )  
 )  
POLICY CONCERNING THE TIMELY ) ADMINISTRATIVE ORDER  
FILING OF BRIEFS IN CRIMINAL ) 2014-05  
APPEALS )  
 )  
\_\_\_\_\_ )

Appellants' rights to due process require the Court of Appeals to timely resolve criminal appeals, and by rule, the Court is required to give precedence to criminal appeals. *See* Arizona Rule of Criminal Procedure ("Ariz. R. Crim. P.") 31.14(b). The timely resolution of criminal appeals also promotes victims' rights under the Arizona Constitution. Review of relevant data reveals that undue delay results when the Court grants an untimely request for the preparation of transcripts of proceedings in the superior court and/or grants multiple extensions of time for the filing of a brief.

Pursuant to Ariz. R. Crim. P. 31.8(b)(2), in every criminal appeal except one in which the death penalty has been imposed, certified transcripts of specified core proceedings in the superior court must be prepared and filed with the Court of Appeals. Pursuant to Ariz. R. Crim. P. 31.8(b)(4), within five days after filing of the notice of appeal, an appellant may request the court reporter to prepare transcripts of additional proceedings not specified in Rule 31.8(b)(2). In some appeals, the Court receives multiple seriatim requests for transcripts of proceedings filed pursuant to Rule 31.8(b)(4). When such requests are made long after the five days specified in the Rule, they can

substantially delay the Court's resolution of the appeal. Not only do untimely requests for transcripts cause delays while the court reporter prepares each newly identified transcript, briefing deadlines must be extended in the meantime.

Pursuant to Ariz. R. Crim. P. 31.13(a), in all cases other than capital cases, an appellant's opening brief shall be filed within 40 days after the mailing of the Clerk's Notice of Completion of Record, and the appellee's answering brief shall be filed within 40 days of the service of the appellant's brief. The Court's current policy is to grant a single 30-day extension of time for each of the opening and answering briefs without requiring a showing of good cause. In some cases, however, the Court receives additional requests for extensions of time. It is not uncommon for counsel to explain the need for additional time by offering only a brief statement citing a "scheduling conflict" or the "press of work" in other cases.

Upon consideration, and in the interests of promoting due process and the interests of all parties to the timely resolution of criminal appeals,

IT IS ORDERED that the Court adopts the following Policy:

1. Absent actual and substantial good cause, any request by a party to supplement the record pursuant to Ariz. R. Crim. P. 31.8(b)(4) must be made no later than 30 days following the Clerk's issuance of the Notice of Completion of record pursuant to Ariz. R. Crim. P. 31.10, or no later than 30 days after counsel's appointment, whichever is later. A party asserting "actual and substantial good cause" for a request to supplement the record will be expected to demonstrate diligence in the prosecution of the appeal, including timely review of the record and determination of the issues the party intends

to raise on appeal. Among the factors that will bear on whether "actual and substantial good cause" exists for a transcript is counsel's detailed explanation for why the need for the transcript was not discovered earlier.

2. Pursuant to Ariz. R. Crim. P. 31.20, and notwithstanding Ariz. R. Crim. P. 31.13(d), the Court will grant a single extension of 30 days in the filing of an opening or answering brief, and a single extension of 20 days in the filing of a reply brief, without any showing of cause. A request for any such extension may be made by email to [CRextension@appeals.az.gov](mailto:CRextension@appeals.az.gov).

3. The Court will grant any additional extension for the filing of a brief only upon a motion showing actual and substantial good cause. Conclusory statements by counsel broadly asserting "scheduling conflicts" or "other work" normally will not constitute actual and substantial good cause sufficient to warrant a subsequent extension of time. In determining whether such an extension will be granted, the Court will consider, among other factors, when counsel was appointed in the matter, whether counsel's inability to timely complete the brief is the result of circumstances that could not have been anticipated, the complexity of the appeal, the length of the trial resulting in the verdict on appeal, counsel's diligence, the size and workload of counsel's law firm or agency, the number of other appeals on counsel's docket, the briefing schedules of other appeals on counsel's docket, and counsel's diligence in those other appeals.

4. In an appeal from a lengthy trial or in which the record or legal issues are particularly complex, the Court, in its own discretion or at the request of a party, may schedule a management conference to set deadlines other than those specified in this

Order for the supplementation of the record and the filing of briefs. Counsel desiring such a management conference must file a request within 30 days of issuance of the Clerk's Notice of Completion or within 30 days of counsel's appointment, whichever is later.

IT IS FURTHER ORDERED that the policy adopted in this Administrative Order will apply to any criminal appeal filed on or after January 1, 2015.

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Diane M. Johnsen  
Chief Judge, Division One  
Arizona Court of Appeals