



DIVISION ONE  
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AMY M. WOOD,  
CLERK  
BY: amw

IN THE  
COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

IN THE MATTER OF: )  
)  
CONCERNING THE TIMELY FILING ) ADMINISTRATIVE ORDER POLICY  
OF BRIEFS IN CRIMINAL APPEALS ) 2019-03 (REPLACING  
) ADMINISTRATIVE ORDER 2014-05  
) TO ADDRESS AMENDMENTS TO  
) THE ARIZONA RULES OF CRIMINAL  
) PROCEDURE)

This administrative order replaces Administrative Order 2014-05, which addressed extensions of time to file briefs in criminal appeals. The only substantive changes are updating the citations to the Arizona Rules of Criminal Procedure and modifying, in accordance with the updated applicable rule, the time within which an appellant may request that a court reporter prepare transcripts of additional proceedings. In addition, this order clarifies that emailed extension requests will become part of the public record in the case.

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* Ariz. R. Crim. P. 31.1(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 Arizona Rule of Criminal Procedure ("Rule") 31.8(b)(1), (c) and (d), 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 Rule 31.8(b)(2)(A), within thirty 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)(1). In some appeals, the Court receives multiple seriatim requests for transcripts of proceedings filed pursuant to Rule 31.8(b)(2)(A). When such requests are made long after the 30 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 Rule 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 Rule 31.8(b)(2)(A) must be made no later than 30 days following the Clerk's issuance of the Notice of Completion of record pursuant to Rule 31.9(e) 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 intend 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. Pursuant to Rule 31.3(a), and notwithstanding Rule 31.13(e), 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) (copying opposing counsel). The court will subsequently file the email request and it will become part of the public record in the case.

2. 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.

3. 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 February 20, 2019.

\_\_\_\_\_/s/\_\_\_\_\_  
Samuel A. Thumma  
Chief Judge, Division One  
Arizona Court of Appeals