



DIVISION ONE
FILED: 02/18/2020
AMY M. WOOD,
CLERK
BY: JT

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN THE MATTER OF:)
)
) ADMINISTRATIVE ORDER POLICY
CONCERNING THE TIMELY FILING)
) 2020-03 (REPLACING
OF BRIEFS IN CRIMINAL APPEALS)
) ADMINISTRATIVE ORDER 2019-03
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This order replaces Administrative Order 2019-03, which addressed extensions of time to file briefs in criminal appeals and untimely requests for additional time to prepare transcripts.

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. Undue delay may result when the Court grants an untimely request to prepare transcripts of proceedings in the superior court and/or grants multiple extensions of time to file a brief.

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 this court. *See* Ariz. R. Crim. P. 31.8(b)(1), (c) and (d). Within 30 days after filing the notice of appeal, an appellant may request that the court reporter prepare transcripts of additional proceedings not specified in Rule 31.8(b)(1). *See* Ariz. R. Crim. P. 31.8(b)(2)(A). In some appeals, the Court receives multiple successive requests for

additional transcripts. When these requests are made long after the 30 days specified in the rule, they can substantially delay the Court's resolution of the appeal.

Similarly, delay may result from requests for extensions of time to file the briefs. In all criminal appeals other than capital cases, the opening brief must be filed within 40 days after the Clerk of the Court of Appeals mails the Notice of Completion of Record, and the answering brief must be filed within 40 days after service of the opening brief. Ariz. R. Crim. P. 31.13(a). The Court's previous policy was to grant a single 30-day extension of time for each of the opening and answering briefs without requiring a showing of good cause. The Court allowed a party to request such an extension by email, copying opposing counsel. Undue delay may result when the Court grants extensions of time that are not supported by good cause. Moreover, in some cases, the Court receives additional requests for extensions of time supported only by 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 timely resolution of criminal appeals,

IT IS ORDERED adopting the following policies:

Motions to Supplement the Record

1. Absent good cause, a motion by a party to supplement the record under Rule 31.8(b)(2)(A) must be made within 30 days after the Clerk issues the Notice of Completion of Record or within 30 days after counsel's appointment, whichever is later. In the motion to supplement the record, the party 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, and to provide details explaining why the need for the transcript was not discovered earlier.

Motions for Extension of Time to File Briefs

2. The Court will only grant an extension of time to file a brief upon a motion showing good cause. Conclusory statements by counsel broadly asserting “scheduling conflicts” or “other work” will not constitute good cause for an extension of time. In determining whether 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 decision 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. If a party has not obtained an order extending time prior to the deadline to file, the brief must be timely filed.

4. The Court will only grant additional extensions if it receives a motion providing new and unforeseen circumstances that justify another extension.

Lengthy or Complex Appeals

5. 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 conference must file a request within 30 days after the Clerk issues the Notice of Completion of Record or within 30 days of counsel's appointment, whichever is later.

IT IS FURTHER ORDERED that the policies adopted in this administrative order will apply to criminal appeals effective April 1, 2020.

_____/s/_____
Peter B. Swann
Chief Judge, Division One
Arizona Court of Appeals