



DIVISION ONE
 FILED: 03/05/2015
 RUTH A. WILLINGHAM,
 CLERK
 BY: JT

IN THE
 COURT OF APPEALS
 STATE OF ARIZONA
 DIVISION ONE

IN THE MATTER OF:)	
)	
POLICIES CONCERNING THE TIMELY)	ADMINISTRATIVE ORDER
DESIGNATION AND FILING OF)	2015-01
TRANSCRIPTS IN CRIMINAL 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. Arizona Rule of Criminal Procedure ("Rule") 31.14(b). The timely resolution of criminal appeals also promotes victims' rights under the Arizona Constitution. In many appeals, however, undue delay results when the Court grants multiple requests for additional time for preparation of transcripts or when parties make requests for additional transcripts that are not plainly identified.

Pursuant to Rules 31.8(b)(2), -(d)(3)(i), -(d)(3)(ii) and 31.9(a), in every criminal appeal except one in which the death penalty has been imposed, certified transcripts of specified proceedings in the superior court must be prepared and filed with the Court of Appeals. If the notice of appeal packet provided to the Court of Appeals by the superior court indicates that the appellant proceeded as an indigent at trial or at sentencing, the deadline for a court reporter to file such transcripts is 45 days from the date of filing of the notice of appeal. Rule 31.8(d)(1), Rule 31.9(a). In that circumstance, a court reporter is "required to begin transcribing as soon as possible after receiving the notice of appeal."

Ariz. R. Crim. P. 31.8(d) (cmt). If the appellant's indigency cannot be confirmed from the notice of appeal packet, but is later established, the Court will issue an order allowing the court reporter 45 days to file the transcripts from the date of the order confirming indigency.

Within five days after the filing of the notice of appeal, a non-indigent appellant must make arrangements with the court reporter to pay for the certified transcript. *See* Ariz. R. Crim. P. 31.8(d)(2). In such cases, the transcript is due 45 days from filing of the notice of appeal. Ariz. R. Crim. P. 31.9(a).

If a party, pursuant to Rule 31.8(b)(4), requests that a court reporter prepare transcripts of additional proceedings not automatically transcribed under Rule 31.8(b)(2), the deadline for filing such transcripts shall be established by Court order, not to exceed 30 days.

Rule 31.9(c) provides that the Court may, on a showing of good cause, grant one extension of no longer than 20 days for the filing of transcripts. On occasion, a single 20-day extension may not be sufficient to allow a court reporter to timely file all required transcripts. Accordingly, in practice, the Court has allowed two automatic extensions and occasional additional extensions, which together have created undue delay in the processing of appeals and have imposed unnecessary administrative burdens on the Court.

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

Rule 31.20, which gives the Court authority in exceptional circumstances to suspend the requirements of any section of Rule 31,

IT IS ORDERED that the Court adopts the following policy regarding extensions for filing transcripts:

1. Upon request, the Court will grant a court reporter an initial extension of 30 days for the filing of a transcript, without any showing of cause, as long as the court reporter files a request at least one day prior to the date the transcript is due.

2. The Court will grant a request for any subsequent extension only upon a showing of actual and substantial good cause. Mere references to “other work” or “pre-planned vacation” normally will not constitute actual and substantial good cause sufficient to warrant a subsequent extension of time. Instead, a court reporter must provide a detailed explanation why the extension is necessary.

3. In determining whether such a subsequent extension will be granted, the Court will consider, among other factors, whether a court reporter’s inability to timely complete the transcript is the result of circumstances that could not have been anticipated; whether the court reporter has timely requested “desk time,” leave from work, or other accommodations from a supervisor and/or judge to facilitate preparation of the transcript; whether the court reporter is utilizing available resources to complete the transcript, including the services of a scopist; whether the trial proceedings were unusually lengthy; and the court reporter’s past performance in meeting transcript due dates.

4. If a court reporter fails to file a transcript on or before the original due date, or by the due date specified in an order granting an extension, the reporter will be required to appear and show cause why sanctions should not be imposed.

IT IS FURTHER ORDERED that the Court adopts the following policy regarding requests for additional transcripts:

1. Any request for transcripts, whether by designation pursuant to Rule 31.8(b)(4), or by motion to supplement, must identify the date of the proceeding, the judicial officer who presided, and the court reporter who was present.

2. Any request for additional transcripts must be served on each identified court reporter.

IT IS FURTHER ORDERED that the Court adopts the following policy regarding distribution of filed transcripts:

After transcripts have been filed with the Court, the court reporter must comply with Rule 31.8(d)(3) within three days.

IT IS FURTHER ORDERED that the policies adopted in this Administrative Order will apply to all criminal appeals pending in the Court as of April 15, 2015.

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