

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA FEB 11 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

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IN THE MATTER OF THE REVIEW OF) ADKT No. 411
ISSUES CONCERNING REPRESENTA-)
TION OF INDIGENT DEFENDANTS)
IN CRIMINAL AND JUVENILE)
DELINQUENCY CASES.)

PETITION TO EXEMPT SIXTH JUDICIAL DISTRICT COURT
FROM ORDER CONCERNING REPRESENTATION OF INDIGENT
DEFENDANTS OR IN THE ALTERNATIVE AN OPPORTUNITY TO BE HEARD

WHEREAS, on January 4, 2008 the Nevada Supreme Court
filed an Order in the matter of the review of issues concerning
representation of indigent defendants in criminal and juvenile
delinquency cases under File No. ADKT No. 411;

AND WHEREAS, the District Court Judges and Justices
of the Peace have conferred with the Boards of County
Commissioners of Humboldt, Lander and Pershing Counties;

AND WHEREAS, it has been determined that said Order
would create substantial hardships in the representation of
indigent defendants;

NOW, THEREFORE, BE IT AND IT IS HEREBY REQUESTED that
either the Nevada Supreme Court exempt the Sixth Judicial
District from the requirements of such Order, or in the
alternative provide for a fair hearing forum for the Judges and

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1 County Commissioners to be heard as it relates to such Order.

2 This request is made based upon the following alternatives:

3 1. The final report and recommendations of the
4 Supreme Court Indigent Commission have made various assumptions
5 as well as outright errors as it relates generally to the rural
6 counties and specifically to Pershing County.
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8 2. Humboldt and Pershing Counties have lawfully
9 passed ordinances instituting a County Public Defender system
10 which was the result of a substantial failure of the State
11 Public Defender's Office in the past to provide adequate
12 representation for indigent defendants in criminal and juvenile
13 delinquency cases. The cost in the past by the State Public
14 Defender was in excess of what is presently being paid for a
15 much improved system. The Order goes only to representation of
16 indigent defendants in criminal and juvenile delinquency cases.
17 In the Sixth Judicial District, attorneys are furnished for all
18 children, in 432B cases, for parents who are alleged to have
19 abused or neglected their children, in all cases of termination
20 of parental rights, and in all cases of guardianship where
21 people's civil rights are at stake. The Supreme Court Order
22 does not provide coverage for those areas described, much of
23 which is provided through the County Public Defender's Office.
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1 The Commissioners in all three counties of the Sixth
2 Judicial District have authorized this pleading to go to the
3 Nevada Supreme Court to either exempt the Sixth Judicial
4 District from such Order or to provide a forum in which the
5 Judges and County Commissioners can at least be heard.

6 4. The Order of the Supreme Court creates unfunded
7 mandates contrary to the Nevada Revised Statutes. By
8 establishing a County Public Defender's Office, the County
9 Commissioners in the Sixth Judicial District have also adopted
10 appropriate standards for indigency to assist the judges in
11 that determination. It is clear that if the rural counties are
12 put either under the Clark or Washoe County officials, as
13 usual, the rural counties will get the leftovers. If the rural
14 counties are forced to go back under the State Public
15 Defender's Office, whose services were inadequate before with
16 no accountability to Judges, the cost would be prohibitive to
17 the counties and would require a legislative session to
18 appropriate such monies. The idea that the only competent
19 attorneys are in Clark and Washoe Counties is not true. There
20 are competent attorneys in the rural areas practicing in the
21 area of criminal defense.
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25 5. In being concerned about representation of
26 indigent defendants in criminal and juvenile delinquency under

1 the mandate of Gideon v. Wainwright, the Committee apparently
2 has created a new standard for ineffective assistance of
3 counsel from the United States Supreme Court set down in 1984
4 in the case of Strickland v. Washington. This will create
5 additional case load for appeals based upon a standard other
6 than that required by law. Artificial case load standards will
7 add to the burden upon the court system and is totally
8 unnecessary in the Sixth Judicial District Court.
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10 Because of all of the above representations, it is
11 requested that either the Order filed January 4, 2008 not apply
12 to the Sixth Judicial District, or that an appropriate forum be
13 provided for the Judges and County Commissioners to be heard.
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15 DATED this 8th day of February.

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18 RICHARD A. WAGNER
19 DISTRICT JUDGE
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