

FILED

1 IN THE SUPREME COURT OF THE STATE OF NEVADA FEB 11 2008
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3 TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *B. Castille*
CHIEF DEPUTY CLERK

4 IN THE MATTER OF THE REVIEW OF) ADKT No. 411
5 ISSUES CONCERNING REPRESENTA-)
TION OF INDIGENT DEFENDANTS)
6 IN CRIMINAL AND JUVENILE)
DELINQUENCY CASES.)
7

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

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

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

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

20 NOW, THEREFORE, BE IT AND IT IS HEREBY REQUESTED that
21 either the Nevada Supreme Court exempt the Sixth Judicial
22 District from the requirements of such Order, or in the
23 alternative provide for a fair hearing forum for the Judges and
24 *RECEIVED* FEB 11 2008
25 *TRACIE K. LINDEMAN*
26 *CLERK OF SUPREME COURT*
DEPUTY CLERK

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

14 DATED this 8th day of February.
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17 RICHARD A. WAGNER
18 DISTRICT JUDGE
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