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April 29, 2025

Washington Supreme Court
415 12th Ave. SW
Olympia, WA 98504

RE: Proposed Standards for Indigent Defense CrR 3.1, CrRLJ 3.1, and JuCR 9.2 (Appellate)

Dear Clerk of the Supreme Court,

I am writing in support of the proposed amendments to the interim caseload standards for appellate indigent defense. I fully support the proposal to reduce the standard appellate caseload from 36 to 25 cases per year.

Since 2001, my primary practice of law has been public defense appeals. While I used to have a balance between criminal and parental rights case assignments, parental rights cases have made up about 90 percent of my caseload for the last five years. These families deserve effective representation and zealous advocacy like any other clients – which often includes so-called discretionary filings such as reply briefs, motions to reconsider, and motions for discretionary review by the Supreme Court. Setting realistic caseloads for appellate public defenders is essential to realizing this.

A caseload of 36 parental rights cases a year is simply too much to ask of our appellate public defenders. I can say with confidence that the notion of setting caseload standards based on trial transcript length has no place in the context of parental rights cases. These cases are dominated by clerk's papers that often greatly overshadow the number of transcript pages. Additionally, there are often hundreds of exhibits that usually include dense and complex medical / psychological reports for children and parents, criminal records, detailed visitation reports, and numerous evaluations from a variety of service providers. Beyond the transcripts, which are by far the easiest read in these types of cases, the records in these cases are particularly lengthy and dense.

Another aspect that is overlooked when case credits are tethered to transcript length is that parental rights cases often require unique and intense client communication. Parents are often concerned, emotional, and suspicious of appointed counsel at first. They often feel discouraged, angry, or heartbroken by the time they get to me. The process of having your child removed and going through a dependency is itself often traumatic. It takes time to build a rapport and trust. This involves listening to their concerns about the dependency process, making myself available when they want to talk about their children, and listening to their

struggles. Also, it takes time to gently manage expectations for the appellate process while also assuring them that you are going to fight for them. In short, it has been my experience that maintaining a good working relationship with parents in dependency matters is a delicate and often time-consuming part of that representation.

Over the last five years, the practice of using Motions for Discretionary Reviews (MDRs) to address problems in dependency matters has increased greatly. While the transcripts are often less than 100 pages, the effort necessary to work these cases cannot be measured by transcript length. There are often novel issues involved that require significant time researching and writing. I often need to educate myself on the local rules and the de facto customs to have a true sense of what this MDR is trying to accomplish. There is time spent on determining just what needs to go in the record. There is considerably more time spent working with trial counsel to strategize and keep up with case events as the dependency case in the trial court evolves. This takes significant time that is just not reflected in the transcript length. Also, almost all of these cases go to oral argument, adding time to the case. While the majority of my MDR assignments usually come in around 40-50 hours per assignment, I have had many that have far exceeded that. Thus, these cannot be considered as little cases that help offset the bigger assignments. MDRs are full appellate cases.

The current case load standard of 36 opening briefs in parental rights cases is blistering. Moreover, because most of my cases are on accelerated review, I avoid extensions as much as possible. This means working some crazy hours at times. I cannot begin to count how many times I have worked straight through the night until 4:00 or 5:00 in the morning. I often work on court holidays and weekends. I seldom go on vacation without taking some work with me because I am fearful of returning to a backlog that I cannot get back on top of.

It can be very stressful if the backlog begins due to a particularly complex case or because I have had to spend extra time researching and writing a novel issue. You cannot plan for these situations. And our current caseload standards don't account for them. Afterward, it can be several months of stress until I can get my caseload back in order. My colleagues and I are dedicated to public defense, but we should not have to continue to sacrifice our health and wellbeing to do this kind of work. I have seen many experienced and committed attorneys leave this field because they are burned out. Case load standards need to be adjusted to a reasonable level so that we can avoid this kind of burn-out and allow our appellate public defenders to effectively and zealously represent parents and children in dependency and termination appeals.

Sincerely,

Jennifer L. Dobson
Attorney at Law

From: OFFICE RECEPTIONIST, CLERK
To: Farino, Amber
Cc: Ward, David
Subject: FW: comments: Proposed Standards for Indigent Defense CrR 3.1, CrRLJ 3.1, and JuCR 9.2 (Appellate)
Date: Tuesday, April 29, 2025 12:00:00 PM
Attachments: 04-29-25 -- appellate workload comment.docx

From: Jennifer Dobson <dobsonj@nwattorney.net>
Sent: Tuesday, April 29, 2025 11:59 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: comments: Proposed Standards for Indigent Defense CrR 3.1, CrRLJ 3.1, and JuCR 9.2 (Appellate)

Please accepted the attached letter for comment. Thank you.