



Brian Schweitzer
Governor

OFFICE OF THE APPELLATE DEFENDER STATE OF MONTANA

Chief Appellate Defender
Joslyn Hunt

October 5, 2010

To: Montana Public Defender Commission
From: Joslyn Hunt, Chief Appellate Defender
RE: Report to the Commission for the Period August 1 to October 1, 2010

UPDATES:

Caseloads: As the attached Exhibit 1 shows, the appellate office took in 11 cases in August and 9 cases in September. Our case base grew each of those months, as predicted.

Case Weighting: Attached as Exhibit 2 is a DRAFT case weighting system for the appellate office. It is largely based on the National Legal Aid and Defender Association standards, with slight modifications that are based on the uniqueness of practicing appellate law in Montana. I envision implementing this case weighting system in much the same manner as the implementation occurred for the trial offices. However, discussions are still occurring amongst all at the appellate office. Once the system is finalized and implementation occurs, I will advise on and report to the Commission accordingly.

Conflict Issue: The *St. Dennis* case is still pending. I argued the *Sellers* case regarding the potential conflict of interest for the appellate office to raise ineffective assistance of counsel claims against the regional public defender offices.

Under my duty of candor to the Montana Supreme Court, I provided the Court with a Notice of Supplemental Information. This Notice targeted the executive order, Katie Barber's letter, AFSCME's letter, and Chairman Gillespie's email. Because I specifically discussed the differences between FTE public defenders and contract attorneys, again, under my duty of candor to the Court, I was obligated to provide this factual supplemental information.

In response to that Notice, the Court issued an Order on September 28, 2010, clarifying that its previous Orders relieving counsel of their obligations actually mooted the issue presented. Consequently, the conflict issue as it applies to the appellate office is not resolved and must be re-litigated.

Commission Requests:

****Court Reporters***

I have not had an opportunity yet to meet with Chief Justice McGrath regarding the concerns that exist about standing masters and the recordings taken during those hearings. However, I intend to schedule a meeting in the future, and I will report on our discussions accordingly.

**Specialty Courts*

Koan Mercer put for the following analysis regarding the specialty court issue. He and I discussed this issue on several occasions. And, he and I separately consulted with others who actually practice in these courts with regard to the analysis. The memorandum is attached as Exhibit 3. Please note that the memorandum is purely opinion and is subject to discussion and different interpretation.

**Additional Information*

See Exhibit 4.