

District Attorney Defends Public Defender

The mental health and criminal history of a Prattsville woman alleged to have received inadequate representation from the county Public Defender's Office were central to arguments on both sides Tuesday as a judge considered a motion to reverse her conviction on a criminal contempt charge.

In a motion filed in Greene County Court last month, Hunter attorney Mathew Tully said the Public Defender's Office failed to respond to more than 60 of 72 letters sent by his client, Kathryn Ebert, and provided her with just 17 minutes of counsel during the eight months she spent in jail prior to being sentenced to probation on the contempt charge.

Assistant District Attorney Charles Tailleir, arguing for the state, said focusing on the number of letters the Public Defender's Office responded to or the amount of time Ebert's attorney spent visiting her in jail does not adequately reflect the office's efforts.

"It is undisputed that the defendant is a prolific writer, often writing lengthy stream-of-consciousness letters to counsel," Tailleir said in papers filed with the court. "Neither the content of the letters from the defendant, nor their number, are proof of anything."

Tailleir added that "the exact amount of time Mr. Lewis (Ralph Lewis, an assistant public defender) spent in the jail with Ms. Ebert does not detract from the soundness of the advice that was given to her."

He said Ebert's 10 previous convictions were proof that she was familiar with the legal system and thus fully understood her plea to accept probation on the contempt charge, enough, he said, to have Tully's motion denied.

"An allegation of ineffective assistance of counsel is waived by knowing, voluntary and intelligent guilty plea," he said.

Tully, meanwhile, said the public defender's office is understaffed to the point that it is forced to "triage" the amount of time it devotes to clients, and in turn discriminates against those with extensive criminal histories.

The Greene County Legislature recently conducted a private meeting about the handling of the Public Defender's Office and last week formed a committee to recruit a full-time public defender. The office is currently staffed by five part-time attorneys.

The state's response included an affidavit from Ralph Lewis, the assistant public defender assigned to Ebert. In the affidavit he said that "alcohol, substance abuse and mental issues" were underlying causes of Ebert's criminal history and said that she "had difficulty being realistic about her problems and need for treatment."

Tailleir said Ebert's history serves to debunk the credibility of her letters, but Tully said Lewis' statement proves the defender should have pursued a mental health defense.

"Any decent attorney would have investigated that issue a little bit further and the only way you would have developed that is if you would have spent time with your client," he said following Tuesday's proceedings.

Tailleur discounted such a possibility.

"I don't believe there was anything in that rose to the level of a mental health defense," he said. "That's a very difficult defense to prove."

Greene County Judge George Pulver Jr. is expected to decide by next month whether to accept Tully's motion, deny it, or to schedule a hearing.