

## Defender Deficient, Lawyer Says

A Hunter attorney has moved for a Prattsville woman's conviction in Greene County Court to be overturned, arguing that the county Public Defender's Office did not provide her with adequate representation.

Attorney Mathew Tully said the 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 in 2002 on a charge of criminal contempt.

Tully is asking the court to overturn Ebert's subsequent conviction in 2003 of a violation of her probation, which resulted in her being sentenced to four years at Bedford Hills Correctional Facility.

"The assigned public defender made little or no effort to communicate with Ms. Ebert," Tully said in his motion. "She was left in the dark throughout the entire proceeding."

Ebert's situation, Tully said, is indicative of an increasingly overworked Public Defender's Office that has become incapable of providing meaningful representation to any indigent defendant.

"They have five moonlighting attorneys handling a caseload that should be handled by five, six or seven full-time attorneys," he said.

Tully said the office's caseload - which increased from 1,066 cases in 1999 to 1,400 cases in 2002 - exceeds standards defined by the American Bar Association.

As a result, he said, the office in 2002 spent an average of 3.4 hours, or \$88.87 worth of attorney services, on each case.

By comparison, he said, during the same year an average of \$861 per case was spent on the 152 cases turned over the assigned counsel panel, which handles cases in which a public defender may have a conflict of interest.

Tully said he faults the Greene County Legislature for failing to adequately fund the office, not the office itself.

"The problems in the public defender's office are not because of (Public Defender) Greg Lubow or anybody on his staff," Tully said. "They, in my opinion, have done everything they could to help their clients with the limited resources they are given."

Lubow declined to comment Thursday. He said his office received a copy of Tully's motion Monday afternoon but neither he nor Ralph Lewis, the assistant public defender primarily involved in representing Ebert, had yet had a chance to read it.

Tully said he expects a decision on the motion before January and will appeal if it is denied.

"I'm rather confident that this motion will be victorious," he said. "I would expect that the

judge limits this motion to solely Ms. Ebert, but I would hope that the judge rules that the Public Defender's Office is per se ineffective."