

Public Defender Goes on the Defensive

An attorney arguing that the Greene County Public Defender's Office failed to provide his client with adequate counsel says an affidavit filed by an assistant district attorney last week supports his claim that the office is ineffective.

Public Defender Greg Lubow said in the affidavit that he or other members of his office met with attorney Mathew Tully's client, Kathryn Ebert of Prattsville, several times beyond the 17 minutes logged in jail visitation records. Tully has alleged his client spent only 17 minutes with court-appointed lawyers in the eight months she spent in jail prior to being sentenced to probation on a criminal contempt charge.

In the affidavit, which County Judge George Pulver Jr. allowed over Tully's objection, Lubow said he has "specific recollections of meeting Ms. Ebert on at least two occasions" in the Public Defender's Office and spending not less than 30 to 60 minutes going over her case. He also cited a 10- to 15- minute conversation with Ebert on the sidewalk immediately outside the office.

Tully said the fact that the meetings Lubow refers to were not mentioned by Ralph Lewis, the assistant public defender assigned to Ebert, in a previous affidavit, is proof of poor communication within the office.

"Clearly what you have here is one hand not talking to the other," Tully said.

Assistant District Attorney Charles Tailleir, arguing for the state, said that upon reflection of Ebert's case, Lubow realized he had spent time meeting with her.

"I said the court deserves a full record," Tailleir said.

Lubow, however, does not cite specific dates or times of meetings in the affidavit.

"Mr. Lubow cannot state when and where these consultations took place," Tully said. "That doesn't amount to proof, that amounts to dysfunction in the office."

Tully has said the allegedly ineffective counsel received by Ebert is indicative of an understaffed Public Defender's Office that has been forced to "triage" the amount of time it devotes to clients.

Tailleir, however, says Ebert's 10 previous convictions are proof she is familiar with the legal system and thus fully understood her plea to accept probation on the contempt charge.

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

Tully said he plans to file a response to the affidavit by the end of the week. Once he does, Pulver will have 60 days to decide whether to accept Tully's motion to reverse Ebert's conviction, deny the motion, or schedule a hearing.

