MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN RE: AREA 16 PUBLIC DEFENDER OFFICE III RUTH PETSCH

RUTH PETSCH

APPELLANT,

v.

JACKSON COUNTY PROSECUTING ATTORNEY'S OFFICE

RESPONDENT.

DOCKET NUMBER WD82962

DATE: June 9, 2020

Appeal From:

Jackson County Circuit Court
The Honorable David M. Byrn, Judge

Appellate Judges:

Division One: Lisa White Hardwick, Presiding Judge, Cynthia L. Martin, Judge and Thomas N. Chapman, Judge

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Attorneys:

John C. Aisenbrey, Bradley J. Yeretsky, and Jessica L. Pixler, Kansas City, MO, for appellant.

Terrence M. Messonnier, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN RE: AREA 16 PUBLIC DEFENDER OFFICE III
RUTH PETSCH, APPELLANT,
v.
JACKSON COUNTY PROSECUTING ATTORNEY'S OFFICE, RESPONDENT.

WD82962 Jackson County

Before Division One Judges: Lisa White Hardwick, Presiding Judge, Cynthia L. Martin, Judge, and Thomas N. Chapman, Judge

Ruth Petsch, the District Defender of the Area 16 Public Defender Office, and the Area 16 Public Defender Office file an application for review of the Presiding Judge of the Circuit Court of Jackson County's order denying the District Defender's request for relief under section 600.063, RSMo, for caseload issues concerning two public defenders. The District Defender argues that the trial court erred in concluding that the two public defenders specifically, and the other public defenders in the Area 16 Public Defender Office generally, were able to provide effective assistance of counsel and had no caseload issues warranting relief. The District Defender also asserts that the trial court committed error by failing to declare sections 600.062 and 600.063 subordinate to Rule 4 of the Rules of Professional Conduct because, without this conclusion, sections 600.062 and 600.063 are unconstitutional as applied.

AFFIRMED.

Division One holds:

(1) Section 600.063 does not create authority in the courts that did not already exist as a part of a court's inherent authority and responsibility to manage dockets in a manner that respects the rights of the defendant, the public, and the State, and that respects the obligation of public defenders to comply with the ethical rules governing their representation. As such, and consistent with appellate review of other trial court rulings involving the exercise of discretion pursuant to inherent authority, orders issued by a presiding judge following a section 600.063 conference are presumed to be correct and are reviewed for an abuse of discretion, and the burden of showing an abuse of discretion is on the appellant.

(2) Because the constitutionality of sections 600.062 and 600.063 as applied were not proper subjects to be determined by the Presiding Judge in connection with a section 600.063 conference, the District Defender's assertion of unconstitutionality of those statutes as applied fails to raise a real and substantial constitutional challenge.

(3) The Presiding Judge's consideration of the efficiency of the Area 16 Public Defender Office and its attorneys was not an abuse of discretion because, in order to determine whether particular public defenders have caseloads that render them unable to provide effective assistance of counsel, it is appropriate to consider what policies and procedures impeding efficiency could be modified or eliminated in order to relieve the caseloads of those attorneys claiming they are unable to provide effective assistance of counsel due to their caseloads.

(4) Section 600.063.3 contemplates that a presiding judge will evaluate the information presented during a conference to issue an order granting or denying the relief requested. The Presiding Judge did not abuse its discretion in finding the caseload statistics more persuasive than testimony from the public defenders claiming their caseloads have rendered them unable to provide effective assistance of counsel.

Opinion by: Cynthia L. Martin, Judge June 9, 2020

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