

SUPREME COURT OF NORTH DAKOTA

In the Matter of a Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys From Outside North Dakota

2019 ND 1 · No. 20160436 · Decided January 9, 2019

SUMMARY

The North Dakota Supreme Court extended the deadline for certain qualified attorneys from outside North Dakota to comply with Rule 3(A) of the North Dakota Admission to Practice Rules in criminal cases arising from Dakota Access Pipeline protests. The Court extended the deadline to January 31, 2019, for cases in which prosecution was delayed because of outstanding warrants and left the remaining provisions of its November 15, 2018 order in effect.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Per Curiam; Gerald W. VandeWalle, C.J.; Jerod E. Tufte; Jon J. Jensen; Lisa Fair McEvers; Daniel J. Crothers
JURISDICTION	North Dakota
DECIDED	January 9, 2019
DOCKET	20160436
DISPOSITION	other
PROCEDURAL POSTURE	The North Dakota Supreme Court considered a request to extend the deadline for out-of-state attorneys admitted under temporary pro hac vice provisions to comply with Rule 3(A) of the North Dakota Admission to Practice Rules.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court order; addresses the Court's administration of temporary pro hac vice authorization in specified criminal cases.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Court should extend the deadline for compliance with Rule 3(A) of the North Dakota Admission to Practice Rules for cases whose prosecution was delayed by outstanding warrants.

HOLDINGS

1. The deadline for compliance with Rule 3(A) of the North Dakota Admission to Practice Rules was extended to January 31, 2019, for cases in which prosecution was delayed because of outstanding warrants.
2. All provisions of the November 15, 2018 order other than the specified deadline extension remained in effect.

KEY QUOTATIONS

“ORDERED that the deadline for compliance with Rule 3(A) of the North Dakota Admission to Practice Rules in those cases that prosecution is delayed due to outstanding warrants is extended to January 31, 2019.” (¶15)

FACTUAL BACKGROUND

The North Dakota Supreme Court had authorized qualified out-of-state attorneys to provide legal services in criminal cases arising from Dakota Access Pipeline protest arrests under special pro hac vice provisions. Many cases remained unresolved because the Morton County State's Attorney's Office was reviewing whether to continue or dismiss them, including cases affected by outstanding warrants.

PROCEDURAL HISTORY

The Court had previously issued orders permitting qualified attorneys from outside North Dakota to represent defendants in criminal cases arising from Dakota Access Pipeline protests under relaxed pro hac vice requirements. The Water Protector Legal Collective requested an extension of the compliance deadline because the Morton County State's Attorney's Office was reviewing cases for possible dismissal or continued prosecution. The Court extended the deadline for cases delayed by outstanding warrants and left the remaining provisions of its November 15, 2018 order in effect.

DISPOSITION

other

OPINION

PER CURIAM.

Filed 1/9/19 by Clerk of Supreme Court IN THE SUPREME COURT STATE OF NORTH DAKOTA 2019 ND 1 In the Matter of a Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys From Outside North Dakota No. 20160436 Per Curiam. [¶1] On January 18, 2017, October 16, 2017, and November 15, 2018, this Court considered the provision of legal

services in criminal cases pending in the South Central Judicial District arising from arrests made during the protests of the Dakota Access Pipeline between August 1, 2016, and until further order of this Court. [¶2] Under the Court's prior orders, qualified attorneys from outside of North Dakota, and not licensed in North Dakota, were relieved from certain filings and requirements normally needed to appear as pro hac vice counsel under Rule 3(A) of the Admission to Practice Rules.

An additional requirement was that an attorney admitted pro hac vice under the Court's Order must verify in writing to the North Dakota State Board of Law Examiners no later than January 5, 2018, their licensure status and provide a listing of pending cases for which they are acting under the January 18, 2017 Order. [¶3] According to administrative records of the South Central Judicial District, all of the criminal cases arising from arrests made during the protests of the Dakota Access Pipeline would not have been completed by the end of 2018.

On November 15, 2018, the Court ordered that those attorneys who qualified under this Court's previous Orders for applicable criminal cases that will not be completed by December 31, 2018, and prosecution is not delayed due to any outstanding warrants, must verify in writing to the North Dakota State Board of Law Examiners no later than January 7, 2019, their licensure status and provide a listing of the pending cases, not in warrant status, for which they are acting under the January 18, 2017 Order.

The Court also ordered that the special pro hac vice provisions under the January 28, 2017 Order will expire December 31, 2019. Thereafter, pro hac vice counsel in these matters must comply with all requirements in Rule 3(A) of the North Dakota Admission to Practice Rules. [¶4] On December 28, 2018, Sarah Hogarth filed a letter on behalf of the Water Protector Legal Collective requesting the deadline be extended to January 31, 2019.

Hogarth explained that the Morton County State's Attorney's office is reviewing those cases for those it wishes to pursue and those it wishes to dismiss and that the review is expected to be completed by January 7, 2019.

On January 3, 2019, the Morton County State's Attorney's office provided a copy of a Notice from District Judge Gail Hagerty dated December 7, 2018. The notice listed the cases the judges of the South Central Judicial District requested the Morton County State's Attorney's office review to either request they remain open or request dismissal and the warrant withdrawn.

It also provided a copy of a Supplemental Notice dated December 17, 2018, with an additional list of cases to review. If no request is made within 30 days of each notice, the listed cases would be dismissed and the warrant withdrawn. Based on the notices, it appears the review for both notices should be completed by January 16, 2019. [¶5] The Court considered the matter, and ORDERED that the deadline for compliance with Rule 3(A) of the North Dakota Admission to Practice Rules

in those cases that prosecution is delayed due to outstanding warrants is extended to January 31, 2019.

2 [¶6] IT IS FURTHER ORDERED, that all other provisions of the November 15, 2018, order remain in effect. [¶7] Gerald W. VandeWalle, C.J. Jerod E. Tufte Jon J. Jensen Lisa Fair McEvers Daniel J. Crothers 3