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July 8, 2021

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JUL 12 2021

CLERK'S OFFICE, STATE OF WISCONSIN
MADISON, WISheila Reiff
Clerk of Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701-1688***RE: State of Wisconsin v. Nhia Lee
Supreme Court Case No. 2019AP221-CR***

Dear Clerk Reiff:

I enclose ten (10) copies of the Motion of National Association of Criminal Defense Lawyers for Leave to File Nonparty Brief in this case. Please file this motion.

By copy of this letter, I am serving copies of this motion on Attorney Julianne M. Lennon, counsel for Mr. Lee, and AAG Timothy M. Barber, counsel for the State of Wisconsin.

Thank you for your assistance.

Very truly yours,

Jerome F. Buting

JFB:bas

Enclosures

cc: Atty. Julianne M. Lennon
AAG Timothy M. Barber

FILED

STATE OF WISCONSIN
IN THE SUPREME COURT

JUL 12 2021

Case No. 2019AP221-CR

CLERK OF SUPREME COURT
OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

NHIA LEE,

Defendant-Appellant-Petitioner,

MOTION OF NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
FOR LEAVE TO FILE NONPARTY BRIEF IN SUPPORT OF DEFENDANT-
APPELLANT-PETITIONER.

The National Association of Criminal Defense Lawyers (“NACDL”), by the undersigned counsel, respectfully moves this Court pursuant to Wis. Stat. (Rule) 809.19(7)(b) for leave to file a nonparty brief in support of the position of Nhia Lee on the Sixth Amendment issues relating to the right to counsel and the harms that occur when an accused who has requested counsel is not promptly provided access to and the assistance of an attorney.

As grounds therefore, NACDL states as follows:

1. The National Association of Criminal Defense Lawyers is a nonprofit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for those accused of crime or misconduct. Founded in 1958, NACDL has a nationwide membership of many thousands of direct

members and, up to 40,000 with its affiliate organizations. NACDL's members include private defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL envisions a society where all individuals receive fair, rational, and humane treatment within the criminal legal system.

2. NACDL files numerous amicus briefs each year in the U.S. Supreme Court and other federal and state courts, seeking to provide assistance in cases that present issues of broad importance to defendants in criminal cases, criminal defense lawyers, and/or the criminal legal system as a whole.
3. NACDL has authored numerous reports relating to the state of public defense including state-focused reports in Louisiana (State of Crisis), South Carolina (Summary Injustice and Rush to Judgment), and Florida (3 Minute Justice), a multipart examination of public defense in America (Gideon at 50, Parts 1, 2, and 3) and an examination of the federal public defense system (Federal Indigent Defense 2015: The Independence Imperative). NACDL has served as amicus on numerous filings relating to the provision of public defense services in state and local courts including *Tucker v. Idaho*, and *Kuren v. Luzerne County* (PA).
4. In 2018, NACDL submitted a written statement in this Court's review of Rule Petition 17-06, In Re: The Petition to Amend SCR81.02, and NACDL's Executive Director, Norman Reimer, traveled to Madison to appear before this Court and provide additional public comment in support of that petition.

5. This appeal addresses core issues relating to the right to counsel. NACDL is keenly interested in ensuring the timely and meaningful appointment of counsel, and in ensuring that persons accused of criminal conduct who rely upon the assistance of court-appointed counsel have access to a zealous, effective, and dedicated counsel to investigate, litigate, and mitigate the state's accusations.
6. NACDL is uniquely situated to provide a national perspective on the prompt appointment of and access to counsel as well as the harms that can befall a defendant when they are not provided timely and meaningful access to counsel who can engage in the activities of representation.
7. The proposed nonparty brief will not repeat the arguments of the parties in this action.

For these reasons, NACDL respectfully moves this Court to grant it leave to file a nonparty brief to assist the Court in its decision in this case. NACDL further requests that the Court schedule a date pursuant to Wis. §809.19(7) within which the brief must be filed, and that such date be no sooner than August 13, 2021. This date is reasonable considering NACDL's other obligations, including the pending departure of its current Executive Director (July 16) and its Annual Meeting of its Board of Directors and the subsequent installation of new leadership (July 24). This date will be only a few weeks later than the date this brief likely would otherwise be due and will be well before any oral argument in this case.

Dated at Brookfield, Wisconsin, July 8, 2021

NATIONAL ASSOCIATION OF CRIMINAL
DEFENSE LAWYERS, *Amicus Curiae*

BUTING, WILLIAMS & STILLING, S.C.



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