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July 7, 2021

RECEIVEDSheila Reiff
Clerk of Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701-1688

JUL 12 2021

CLERK OF SUPREME COURT
OF WISCONSIN

Re: State of Wisconsin v. Nhia Lee, Sup. Ct. Case No. 2019AP221-CR

Dear Ms. Reiff:

I am enclosing ten copies of the Motion of Wisconsin Association of Criminal Defense Lawyers for Leave to File Nonparty Brief in this case. Please file this motion.

By copy of this letter, I have served copies of this motion on Attorney Julianne M. Lennon, counsel for Mr. Lee, and Assistant Attorney General Timothy M. Barber, counsel for the State of Wisconsin.

If you have any questions or concerns, please let me know.

Sincerely,

HENAK LAW OFFICE, S.C.


Ellen Henak

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

STATE OF WISCONSIN
IN SUPREME COURT**FILED**

Case No. 2019AP221-CR

JUL 12 2021CLERK OF SUPREME COURT
OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff-Respondent,

NHIA LEE,

Defendant-Appellant-Petitioner,

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

The Wisconsin Association of Criminal Defense Lawyers ("WACDL"), by 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 issue whether a defendant's rights to due process, to counsel, and to a speedy trial preclude finding cause under Wisconsin Statutes §970.03(2) to delay a preliminary hearing based upon delays resulting from difficulties the State Public Defender has in finding counsel to appoint.

As grounds therefore, WACDL states as follows:

1. The Wisconsin Association of Criminal Defense Lawyers is an organization composed of criminal defense attorneys practicing in the State of Wisconsin, with a membership of both private and public defender attorneys totaling approximately 450 attorneys, and whose members appear regularly before all courts of this State. WACDL, by its charter, is organized to foster and maintain the integrity of the criminal defense bar, to promote the proper administration of criminal justice, and to uphold the protection of individual rights and due process of law. WACDL and its members, consequently, have an abiding professional and ethical commitment to ensure that criminal defendants receive the due process of the laws to which they are entitled.

2. WACDL has long been involved in activities before this Court seeking to foster expeditious appointment of counsel in criminal cases.

3. This appeal addresses, among other things, the legal and practical effects that the difficulties and delays in appointing counsel for indigent counsel have created.

4. Given this history, WACDL believes it is uniquely situated to address these effects and what they mean for the criminal justice system in

this state. The Office of the State Public Defender regularly appoints its members to represent indigent criminal defendants and regularly requests that its members accept such appointments. As a result, a decision of the Court in this case may directly and substantially affect WACDL's members and their clients.

5. The primary interest of WACDL in this appeal is in presenting to this Court information and considerations. WACDL considers these issues to be as a matter of central importance to its members and to the state and federal rights of criminal defendants.

6. The proposed nonparty brief will not repeat the argument of the parties in this action.

For these reasons, WACDL respectfully moves the Court to grant it leave to file a nonparty brief to assist the Court in its decision in this case. WACDL further requests that the Court schedule a date pursuant to Wis. Stat. §809.19(7) within which that brief must be filed, and that such date be no sooner than July 30, 2021 because of counsel's other obligations and because counsel will be on her first pre-planned vacation in approximately two years. In addition, that date is just over one week from the date counsel anticipates its brief would otherwise be due.

Dated at Milwaukee, Wisconsin, July 7, 2021.

Respectfully submitted,

WISCONSIN ASSOCIATION OF CRIMINAL
DEFENSE LAWYERS, *Amicus Curiae*

HENAK LAW OFFICE, S.C.



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