



DIVISION ONE  
FILED: 08/30/2024  
AMY M. WOOD,  
CLERK  
BY: JT

IN THE  
COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

IN THE MATTER OF: )  
AFFIDAVIT AND AVOWAL ) ADMINISTRATIVE ORDER  
REQUIREMENTS IN JUVENILE ) 2024-08  
APPEALS RELATED TO GUARDIAN )  
SYSTEM )  
\_\_\_\_\_ )

In February 2021, the Arizona Department of Child Safety began using the Guardian computer system for disclosures in dependency, termination, guardianship, and adoption cases. In August 2023, the Department advised the court that the Department failed to make disclosures in a timely fashion as required by Constitutional provision, statute, court order, or rule. The Department said these disclosure problems occurred because its Guardian system was not well-suited for litigation use. The Department initially said Guardian problems involved more than 95,000 documents but later said that it discovered more than 100,000 additional affected documents. The number of undisclosed documents in dependency matters remains unknown.

Given these unprecedented disclosure problems, the court issued Administrative Order 2024-04 on March 28, 2024. That order addressed the Department's failure to provide timely disclosures because of Guardian system problems. The court ordered the

Department to provide a detailed list of cases affected by the Guardian system.

After reviewing the Department's response to the March 28, 2024 order and discovering numerous errors and inconsistencies, the court held a status conference with the Department. Following that conference, the court issued an order in administrative case JV 24-0061. That order imposed additional requirements on the Department. Some of those requirements affect both pending and new juvenile appeals before Division One. The purposes of this administrative order are to track these requirements, to inform parties in specific cases of these requirements, and to establish a protocol for satisfying these requirements.

IT THEREFORE IS ORDERED effective August 16, 2024, in all Division One juvenile appeals in which the Arizona Department of Child Safety is a party:

1. A Department representative must prepare, and counsel must file, an affidavit.
  - a. In that affidavit, the affiant must affirm to the best of the affiant's ability he or she has confirmed the Department disclosed to the parties all documents in the Department's possession before the adjudication hearing. If the affiant is able to make that confirmation, the affiant must state whether disclosures in the case met the requirements of Arizona Rule of Procedure for the Juvenile Court 315, and if not, why not.
  - b. If the affiant cannot affirm that all documents were disclosed, the affiant must identify all case-specific disclosures not made before the

adjudication hearing and state why those disclosures were not made.

2. Counsel for the Department must file a notice avowing counsel has communicated with his or her client and reviewed the record to ensure, to the best of counsel's ability, all disclosures were completed before the adjudication hearing.

3. If either the affidavit or avowal requirements cannot be met, counsel must file a notice to that effect in this court and request a stay and remand.

4. If counsel or the Department learns that a filed affidavit or avowal is inaccurate, counsel must file a notice in this court within two business days and request a stay and remand.

IT FURTHER IS ORDERED:

1. **In all Division One juvenile appeals filed before August 16, 2024, and in which the court issued a notice of completion before the date of this administrative order:** The Department's counsel must file the affidavit and avowal within 20 days from the issuance of notice by the clerk of the court. The Department and counsel must satisfy these requirements before this court will issue a mandate.

2. **In all Division One juvenile appeals filed before August 16, 2024, and in which the court has not issued a notice of completion as of the date of this administrative order:** The Department's counsel must file the affidavit and avowal within 20 days from the issuance of notice by the clerk of the court. The Department and counsel must satisfy these requirements before this court will issue a notice of completion.

3. **In all Division One juvenile appeals filed after August 16, 2024:** The Department's counsel must file the affidavit and avowal within 30 days from the filing of the notice of appeal in the Superior Court or the filing of this administrative order, whichever is later. The Department and counsel must satisfy these requirements before this court will issue a notice of completion.

IT FURTHER IS ORDERED the court will not grant extensions for the filing of the affidavit and avowal absent extraordinary circumstances.

IT FURTHER IS ORDERED directing the clerk of the court to enter a notice of this administrative order and the related due dates in each currently pending Division One juvenile appeal in which the Arizona Department of Child Safety is a party and each juvenile appeal in which the Arizona Department of Child Safety is a party filed while this administrative order is in effect.

IT FURTHER IS ORDERED if the Department fails to timely file the affidavit or avowal or the affidavit or avowal is deficient, the court may place the matter on the court's order to show cause calendar to give the Department an opportunity to show cause, if any exists, why the court should not hold it in civil contempt.

IT FURTHER IS ORDERED the court may take any other actions it deems appropriate.

IT FURTHER IS ORDERED the clerk of the court shall distribute this order to Kristin K. Mayes, Arizona Attorney General; Kirsten Wright, Assistant Attorney General; and David Lujan, Cabinet Executive Officer, Arizona Department of Child Safety.

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David B. Gass, Chief Judge