



DIVISION ONE  
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**IN THE COURT OF APPEALS  
 STATE OF ARIZONA  
 DIVISION ONE**

|                                  |   |                          |
|----------------------------------|---|--------------------------|
| KOLANY VIDAL CHATMON,            | ) | Court of Appeals         |
|                                  | ) | Division One             |
| Petitioner,                      | ) | No. 1 CA-SA 10-0023      |
|                                  | ) |                          |
| v.                               | ) | Maricopa County          |
|                                  | ) | Superior Court           |
| THE HONORABLE ROSA MROZ, Judge   | ) | No. CR2009-129069-001 DT |
| of the SUPERIOR COURT OF THE     | ) |                          |
| STATE OF ARIZONA, in and for the | ) |                          |
| County of MARICOPA,              | ) | Department C             |
|                                  | ) |                          |
| Respondent Judge,                | ) |                          |
|                                  | ) |                          |
| STATE OF ARIZONA,                | ) |                          |
|                                  | ) |                          |
| Real Party in Interest.          | ) | <b>DECISION ORDER</b>    |
| _____                            | ) |                          |

The Court, Patrick Irvine, Presiding Judge. and Michael J. Brown and Donn Kessler, Judges, participating, has considered Kolany Vidal Chatmon's ("Chatmon") petition for special action and the State of Arizona's ("State") Response to Petition for Special Action. For the reasons stated below, we accept jurisdiction of the petition and grant relief.

The facts are essentially undisputed. A grand jury indicted Chatmon for several alleged crimes. The deadline for Chatmon to file a motion to dismiss the indictment and remand the matter to the grand jury was on or about June 14, 2009. Two different judges of the superior court granted Chatmon extensions of time to file that motion, the first extension being until August 7, 2009 and the second being until January

29, 2010. Chatmon filed a timely motion to remand to the grand jury and filed a supplement thereto on January 21, 2010. Both the motion and supplement were timely filed given the orders extending the time for such motion. However, on January 21, 2010, a third judge of the superior court denied Chatmon's motion as untimely, apparently not being aware of the second order granting an extension until January 29, 2010.

Chatmon contends that the superior court abused its discretion by ruling his motion and supplement were untimely because the court had already extended the time for such a motion until January 29 and he timely filed his motion and supplement. The State agrees that the order denying the motion to remand as untimely was erroneous.

We agree that the order denying the motion and supplement is erroneous. Apparently, that order is simply a matter of a failure to communicate to the third judge that the court had already extended the deadline for the motion to remand until January 29, 2010. Accordingly,

**IT IS HEREBY ORDERED** accepting jurisdiction of the petition for special action and vacating that portion of the January 21, 2010 minute entry denying Chatmon's motion to remand to the grand jury as untimely. This matter is remanded to the superior court for it to consider the merits of Chatmon's motion to remand to the grand jury and the supplement thereto.

**IT IS FURTHER ORDERED** vacating the conference previously scheduled for March 2, 2010 on this matter.

**IT IS FURTHER ORDERED** directing the clerk of this Court to send a copy of this order to the parties or their attorneys of record and to the Honorable Rosa Mroz and Robert L. Gottsfield, Judges.

\_\_\_\_\_/S/\_\_\_\_\_  
DONN KESSLER, Judge