



Michigan Supreme Court to Hear Case on Public Defense System

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LANSING – In an order entered Friday, the Michigan Supreme Court agreed to hear the state’s appeal in a class action lawsuit filed by the American Civil Liberties Union seeking to fix Michigan’s system for providing lawyers to poor people in criminal cases. In June 2009, a Michigan Court of Appeals rejected the state’s attempts to dismiss the lawsuit and allowed the lawsuit to proceed.

“In a state where we spend more on prisons than on education, it is imperative that this broken system be fixed and that all those accused of a crime receive the same quality of justice no matter how rich or poor,” said Kary L. Moss, ACLU of Michigan Executive Director. “We look forward to the opportunity to explain to the Michigan Supreme Court the need for our case to proceed so that justice is not delayed for poor people in the state.”

Earlier this year, the state asked the Court of Appeals to dismiss the case for technical reasons, arguing that the state was immune, that a class action is inappropriate and that the plaintiffs could not sue until after they are convicted. The Court of Appeals rejected the state’s arguments recognizing the plaintiffs must be given the opportunity to prove that the state has violated the Constitution.

“We cannot accept the proposition that the constitutional rights of our citizens, even those accused of crimes and too poor to afford counsel, are not deserving and worthy of any protection by the judiciary in a situation where the executive and legislative branches fail to comply with constitutional mandates and abdicate their constitutional responsibilities,” wrote Michigan Appeals Court Judge William Murphy.

In February 2007, the ACLU filed a class action against the state on behalf of all indigent criminal defendants in Berrien, Muskegon and Genesee Counties. The lawsuit was filed in Ingham County Circuit Court and called on the court to declare the current public defense systems of the three counties unconstitutional and compel the state to assure representation consistent with national standards and constitutional norms.

In May 2007, Ingham County Circuit Court Judge Laura Baird rejected the state’s calls to dismiss the lawsuit, but the state appealed.

Currently, Michigan provides no administrative oversight or funding for public defense at the trial level, but delegates all responsibility to the counties. There is no state training for public defense attorneys, no performance standards to govern their practice, and no review of their

performance. Moreover, many of the counties have been dramatically under-funding indigent defense for years. The result is that in each of the three counties at issue in the suit - and indeed in many parts of Michigan - the public defense provided does not meet national standards or the constitutional minimum requirements for effective assistance of counsel.

In addition, many experts believe the state's broken system is costly. Michigan spends almost \$2 billion dollars a year on prisons. Experts estimate that this amount is 40 percent higher than other states due to unwarranted, inappropriately long sentences. In addition, the broken system leads to the incarceration of innocent people. For instance, the case of Eddie Joe Lloyd, a man who served 17 years in prison for a crime he did not commit, cost the state \$4 million to settle a lawsuit upon his release. This figure doesn't include the hundreds of thousands of dollars spent to incarcerate him or the amount the state spent prosecuting the case and defending the appeal.

Attorneys for the class of indigent defendants include Moss, Mark Granzotto, Michael J. Steinberg, Mark Fancher and Jessie Rossman of the ACLU of Michigan, Frank Eaman of Detroit, Robin Dahlberg of the National ACLU, and Julie North, Misty Archambault and Sarita Prabhu of New York law firm of Cravath Moore & Swain.

To read the Michigan Supreme Court's order granting the state's application for leave to appeal, go to: http://coa.courts.mi.gov/documents/SCT/PUBLIC/ORDERS/20091218_S139345_83...

To read the opinion, go to:
http://coa.courts.mi.gov/documents/opinions/final/coa/20090611_c278652_7...

To read the ACLU brief on appeal, [click here](#).

To read the complaint, [click here](#).