

No. 2000-IA-01477

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

STATE OF MISSISSIPPI, RONNIE MUSGROVE, in his official capacity as GOVERNOR, and MIKE MOORE, in his official capacity as ATTORNEY GENERAL

Defendants-Appellants,

vs.

QUITMAN COUNTY, MISSISSIPPI,

Plaintiff-Appellee.

FILED
APR 8 2001
OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

On Appeal From The Circuit Court of the Eleventh Judicial District In and For Quitman County, Mississippi

MOTION AND BRIEF FOR *AMICUS CURIAE*
QUITMAN COUNTY CHAMBER OF COMMERCE

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per order of
5/1/01

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On Appeal from the Circuit Court of the Eleventh Judicial District In and For
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MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE
QUITMAN COUNTY CHAMBER OF COMMERCE, IN SUPPORT OF
APPELLEE QUITMAN COUNTY

Pursuant to Mississippi Rule of Appellate Procedure 29(a), *amicus curiae* Quitman County Chamber of Commerce hereby moves for leave to file the attached proposed brief in support of Appellee Quitman County. The attached brief would be filed on behalf of the Quitman County Chamber of Commerce, which holds the view that state funding of an indigent defense system is essential for a number of reasons: It would provide a more secure economic future for Quitman County by lessening the overwhelming costs of the criminal justice system and reducing the governmental waste of scarce taxpayer funds by increasing efficiency, and it would promote public confidence in the administration of justice. As indicated by the attached brief, the Quitman Chamber of Commerce has interests that will likely be affected by the outcome of the case, and its interests are neither adequately represented nor protected by those already parties to the case.

INTRODUCTION

Amicus curiae Quitman County Chamber of Commerce, because of its role as a voice for the Quitman County business and professional communities and its dedication to enhancing the business climate and quality of life in Quitman County, is uniquely positioned to comment on fiscal responsibility and community development issues associated with the debate over whether the State should fund indigent defense in Mississippi and in Quitman County. We believe that the creation of a statewide indigent defense system funded by the State rather than the counties would lead to a more secure economic future for Quitman County by lessening the overwhelming costs of the criminal justice system and reducing further governmental waste of taxpayer funds and would promote public confidence in the administration of justice. Considerations such as these in which the community at large is affected should not be overlooked in this debate.

BACKGROUND

Quitman County has public defenders who are employed on a part-time, contractual basis. This public defender system is operated on a county level, and is funded exclusively by county taxpayers. *Amicus curiae* Quitman County Chamber of Commerce is a private organization that serves as a voice for the business and professional communities and advocates on behalf of economic and community development, fiscal responsibility, and better quality of life in the community.

ARGUMENT

A Full-Time, State-Funded Public Defender System in Quitman County Would Lead to a More Secure Economic Future for Quitman County By Lessening the Overwhelming Costs of the Criminal Justice System and Reducing The Waste of Scarce Taxpayer Funds.

A. **The Costs of the Criminal Justice System Under the Current Public Defender System Have Been Enormous and Led to Severe Economic Dysfunction in Quitman County.**

State funding of a statewide indigent defense system would provide a more stable economic foundation for the county than the current part-time/contractual, county-funded public defender system. The current system has led the county into financial disarray, and continuation of it will only result in further peril to the county's already lean coffers. The State has imposed enormous and unpredictable indigent defense costs on Quitman County and its taxpayers by forcing them to incur overwhelming expenses for the defense of indigent defendants, some of whom are not even residents of Quitman County. Just one example is the \$250,000 over the course of a decade in expenses for the defense of two non-Quitman County residents, Robert Simon, Jr., and Anthony Carr, for their trial and subsequent appeals on several charges of murder, which they committed in the county in 1991. See Reed Branson, 2 Counties Sue Miss. for Public Defender Money, The Commercial Appeal, December 17, 1999, at B1. These cases are still ongoing, and it is estimated that \$30,000 a year is being spent currently for their appeals. Pursuant to these costs, the county had to raise property taxes three years in a row, and secure a loan used to cover expenses, which ultimately took five years to pay off. See id. As a result, financial resources available to fund schools, hospitals, local law enforcement, and the offices of the county government relating to traditional health, safety, and welfare obligations to its citizenry have been dangerously reduced.

The defendants' imposition of indigent defense costs on Quitman County has disproportionately increased its tax burden. Counties with small populations but

significant crime problems -- often from non-residents -- such as Quitman County are left with the difficult dilemma of either raising taxes on its already burdened tax base or cutting important services, such as education or health care. This arrangement hurts those counties that are already the most financially strapped. The best solution to the current situation is for the State of Mississippi to fund a full-time public defender system in Quitman County, as well as other counties in similar situations. This solution would relieve some of the pressure on the scarce financial resources of Quitman County and allow it to use its tax dollars on much-needed endeavors like health care, education, and community development.

B. A State-Funded Public Defender System Would Reduce Further Governmental Waste of Scarce Taxpayer Funds By Boosting the Efficiency of the Criminal Justice System, Thereby Increasing Funds for Other Endeavors

Implementation of a state-funded public defender system in Quitman County would reduce the waste of taxpayer funds and inefficiency that currently runs rampant in the criminal justice system in the county. This would allow the use of more funds for essential county services.

The criminal justice system in Quitman County is made up of distinct components which must operate in harmony to produce the optimal result -- conviction and imprisonment of those guilty of crimes. At the core of this system is reliance on the adversarial process. There is an expectation that an effective, diligent counsel will present to the courts the most impressive statement of facts, testimony of witnesses, and analysis of precedent in support of the client's position. In order for the confrontation between adversaries to lead to a reliable determination by the factfinder, each side must

be relatively balanced. If either side is disadvantaged, underfunded, or overburdened, the criminal justice system, fails. See Caraway v. Beto, 421 F.2d 636, 637-38 (5th Cir. 1970) (our adversary system cannot serve its function unless the accused's counsel conducts the required investigation and presents an intelligent and knowledgeable defense). It makes no sense to skimp on one component while fully funding another component since they must both be operative at more or less the same level for the entire system to work properly. In the present criminal justice system, the state funds most of the prosecutorial function and provides it with all the resources it needs, while providing little or no funding for the defense function. Counties must scrape together what they can to fund the defense function. The only logical course of action is to attempt to get the maximum value out of the funds that are put into the criminal justice system by ensuring that each component, including the indigent defense system, works properly.

The current part-time/contractual, county-funded public defender system in Quitman County does not work properly. The criminal justice system moves no faster than the slowest-moving party. Counties pay much of the cost associated with incarcerating defendants prior to trial and/or conviction. Accordingly, excessive pretrial delays cause counties to spend their own funds to hold defendants in county custody, even though these costs properly should be borne by the State.

Also, the current public defender system leads to costly appeals, retrials, and post-conviction proceedings, some based on the inadequacy of defense counsel. Properly funded public defenders would reduce the number of errors and make the system more cost effective in the long run. For example, there have been numerous post-conviction challenges to the adequacy of counsel provided to indigent defendants tried for felonies in Quitman County in the past. These challenges - particularly the Simon-Carr proceedings - are expensive for Quitman County and its taxpayers.

Ensuring the financial health of Quitman County for the future is an important goal of the Quitman County Chamber of Commerce, and implementing a state-funded public defender system would go a long way in helping to reach that goal.

CONCLUSION

For the foregoing reasons, the decision below should be affirmed.

Dated: April 17, 2001

Respectfully submitted,

QUITMAN COUNTY CHAMBER OF COMMERCE

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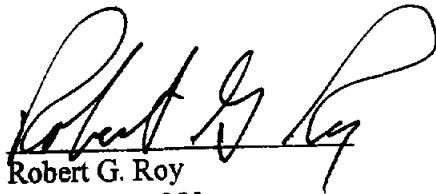
CERTIFICATE OF SERVICE

This is to certify that I, Robert G. Roy, have caused to be mailed on this 11 day of April, 2001, via first-class postage pre-paid, a true and correct copy of the foregoing Brief of *amicus curiae* Quitman County Chamber of Commerce to the following

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