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IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

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SUPREME COURT
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QUITMAN COUNTY, MISSISSIPPI,

Plaintiff-Appellant

vs.

per order of 8/4/04

STATE OF MISSISSIPPI, Haley Barbour,
in his official capacity as GOVERNOR, and James Hood,
in his official capacity as ATTORNEY GENERAL,

Defendants-Appellees

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

AMICUS CURIAE BRIEF of MISSISSIPPI SHERIFFS

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MOTION# 2004-2221

IN THE SUPREME COURT OF MISSISSIPPI

QUITMAN COUNTY, MISSISSIPPI,
Plaintiff-Appellant,

vs.

STATE OF MISSISSIPPI, Haley Barbour,
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ATTORNEY GENERAL,
Defendants-Appellees.

No. 2003-SA-02568

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

**BRIEF OF AMICI CURIAE SHERIFFS OF
QUITMAN COUNTY, ET AL. IN SUPPORT
OF APPELLANT QUITMAN COUNTY**

As experienced Mississippi law enforcement officials charged with the responsibility of supervising law enforcement efforts of each of their respective counties, *amici* are particularly well-suited to address whether a statewide and state funded full-time public defender system is necessary for the fair, efficient and effective administration of justice, and whether the implementation of such a full-time system would further public confidence in law enforcement. *Amici* are uniquely positioned to attest to the virtues of a system with a full-time public defender office, as compared to one where public defenders represent indigent defendants on a part-time or contract basis. Experience demonstrates that the system of justice is more effective with a full-time public defender office.

Adams, Bolivar, Claiborne, Coahoma, Covington, Holmes, Humphreys, Jefferson, Jefferson Davis, Lauderdale, Lowndes, Montgomery, Noxubee, Pike, Quitman, Rankin, Walthall, Wayne, and Wilkinson Counties each have public defenders who are employed on a part-time or contractual basis or have systems where private attorneys are appointed on a case-by-case basis. Hinds County formerly had a system of case-by-case appointments of counsel for indigent defendants and since 1991 has had a full-time public defender office. Forrest County recently hired a full time public defender, although other employees in the office are part-time. The public defender system in each of the counties is operated on a county level.

Argument

I. A FULL-TIME PUBLIC DEFENDER OFFICE IS AN INTEGRAL PART OF THE FAIR, EFFECTIVE AND EFFICIENT ADMINISTRATION OF JUSTICE AND EASES THE BURDEN ON LAW ENFORCEMENT OFFICIALS

A full-time public defender office is an integral part of the system of justice. If the indigent defense function is inadequate, every other component of the system must find a way to compensate for such inadequacies. Law enforcement is adversely affected because, among other reasons, indigent defendants who are unable to make bail or who do not receive a speedy trial languish in often overcrowded county jails waiting for the resolution of their cases. The failure of the indigent defense system can create a situation in which counsel is not appointed until late in the process, causing delay and potentially hindering chances of obtaining a conviction. Moreover, delay means a waste of resources. Sheriffs are forced to use valuable resources supposedly earmarked for enforcement activities to ensure that these additional indigent defendants are kept in the

county system, even when such defendants belong in the state penitentiary, should have been released, or end up serving more time waiting for the disposition of their case than they receive in sentencing.

A clear division of duties among law enforcement, prosecutors, and public defenders benefits the justice system as a whole. In contrast, the justice system deteriorates when any one component falls short. Implementing a public defender system that meets constitutional standards will promote confidence and community cooperation in law enforcement efforts.

II. THE EXPERIENCE OF HINDS COUNTY SHOWS THAT A FULL-TIME PUBLIC DEFENDER OFFICE FURTHERS THE FAIR, EFFICIENT AND EFFECTIVE ADMINISTRATION OF JUSTICE

Hinds County's experience shows that the availability and experience of the staff of a full-time public defender office furthers the fair, efficient, and effective administration of justice. The prosecutor's office and the public defender office represent, respectively, the interests of the state in securing a conviction and the interests of indigent defendants in protecting their constitutional rights. When operating properly, they serve the interests of the citizens of Mississippi in a fair, efficient, and effective system of justice. The relationship created by an effective prosecutor and an effective public defender promotes the public interest and public trust in the justice system. This permits the Sheriff of Hinds County to focus on law enforcement responsibilities without also having to handle the problems of indigent defendants. The full-time staff of the Hinds County public defender office are committed and experienced professionals who do not face the competing interests of private practices that part-time public defenders

have. Full-time public defenders supported by investigators and other staff have the resources necessary to handle their caseloads.

The full-time public defender office in Hinds County helps ensure that counsel is appointed early and is present at the appropriate stages of the proceedings, that cases lacking sufficient evidence are dismissed quickly instead of taking valuable time on the docket, that defendants are given appropriate bail options (thereby reducing the costs of imprisoning more pre-trial detainees than necessary) and that cases continue to move through the system rather than remain on the docket indefinitely due to counsel who is not prepared to proceed.

The full-time public defender office also helps to promote judicial confidence in the many complex and delicately balanced decisions that law enforcement agents make in the course of an investigation, arrest and disposition of a case. With full-time public defenders, the courts can have assurance about the quality of representation. The court is less likely to have to engage in second-guessing of law enforcement matters that require the effective advocacy of counsel, such as issues concerning the proper exclusion or admissibility of evidence, voluntariness of a confession, and knowledge and understanding of plea arrangements.

III. THE EXPERIENCE OF THE SHERIFFS OF COUNTIES IN WHICH INDIGENT DEFENDANTS ARE REPRESENTED BY PART-TIME PUBLIC DEFENDERS DEMONSTRATES THE BURDEN IMPOSED ON SHERIFFS AND THE NEED FOR A FULL-TIME PUBLIC DEFENDER SYSTEM

In contrast, the burden imposed on the sheriffs of the many other counties where public defenders are employed on a part-time basis or attorneys are appointed on a case-by-case basis handicaps law enforcement officials. While there is a single office these

sheriffs can call when they need to speak with a prosecutor, there is no single defender office to call when a problem arises that defense counsel can help to solve. The justice systems in these counties often move more slowly because there are no full-time public defenders. Consequently, sheriffs house pretrial detainees longer than is necessary. These sheriffs expend too much time and effort resolving problems resulting from indigent defendants lacking adequate representation. These problems include unpredictable and unforeseeable costs and resources that must be devoted to the detention of indigent defendants, the obligation to keep cases moving through the judicial system without counsel prepared and available, and the overall difficulty of obtaining cooperation from unresponsive counsel lacking time and resources for the representation of such indigent defendants.

Conclusion

For the reasons set forth herein, the Sheriffs submit that a statewide and state funded full-time public defender system should be implemented to achieve a fair, effective, and efficient system of justice in Mississippi.

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Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that I have caused to be served by _____ on this
12 day of July, 2004 a true and correct copy of the foregoing Motion for Leave
to File Brief of *Amici Curiae* Sheriffs of Quitman County, et al. in Support of Appellant
Quitman County and accompanying Brief of *Amici Curiae* on the following:

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