

ACLU Slams Michigan Supreme Court Decision To Dismiss Public Defense Case

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DETROIT – The American Civil Liberties Union slammed a Michigan Supreme Court decision today dismissing a lawsuit seeking to fix Michigan's system for providing defense to poor people in criminal cases just three months after the court unanimously allowed the case to proceed.

"We are shocked and disturbed by the Supreme Court's about-face. The court essentially ruled that it is powerless to address this systemic problem, yet it is the solemn duty of the courts to issue rulings when systems are unconstitutional," said Michael J. Steinberg, ACLU of Michigan legal director. "Today's order prevents us from proving what most observers already know – Michigan's justice system is broken for poor people accused of crimes."

Following the Michigan Supreme Court unanimous rejection of the State of Michigan's attempts to dismiss the case in April, the state asked the court to reconsider its decision. Previously, the court rejected the state's argument that the courts did not have the power to find the indigent defense system unconstitutional and that the plaintiffs could not sue until after they were convicted. At the time, the court sent the case back to Ingham Circuit Court, stating it was too early to rule on the merits of the case. Today, the court took the unusual step, in a 4-3 decision, of reversing its unanimous order and finding in favor of the defendants without considering the merits of the case.

"Our fight to fix the indigent defense system is far from over and we are currently weighing our legal options," said Steinberg. "If the courts are unwilling to take responsibility for this broken system, the legislature must act. When the indigent defense system is broken, everyone suffers. Innocent men and women end up in prison while the perpetrators are left on the streets to commit more crimes."

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. In June 2009, the Michigan Court of Appeals rejected the state's attempts to dismiss the lawsuit and allowed the lawsuit to proceed. Today, the Michigan Supreme Court reversed the appeals court opinion relying on the appeals court's dissenting opinion.

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.

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

To read the Michigan Supreme Court's decision, go to: http://www.aclumich.org/sites/default/files/file/MSC_DUNCAN.pdf

To read the Michigan Supreme Court's previous order, go to:
<http://aclumich.org/sites/default/files/file/SUPCTORDERDuncan.pdf>

To read the ACLU brief on appeal, go to: <http://aclumich.org/sites/default/files/file/indigentdefensebrief.pdf>

To read the complaint, go to: <http://aclumich.org/sites/default/files/file/indigentdefensecomplaint.pdf>