



Lawsuit on behalf of poor defendants stays alive; Genesee, Berrien, Muskegon counties at heart of case

by Ed White | The Associated Press

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DETROIT -- In a case with possible statewide implications, the Michigan Court of Appeals said Friday a lawsuit can go forward challenging how publicly appointed lawyers represent poor people in three counties.

The case centers on Genesee, Berrien and Muskegon counties, where poor criminal defendants claim their constitutional rights are being violated. They say a lack of public money means getting attorneys who are not qualified or able to effectively represent them.

The lawsuit says the state of Michigan is ultimately responsible, although spending decisions are made locally.

"We are not ruling that a constitutional failure has in fact occurred here, but it has been alleged and needs to be judicially addressed," judges William Murphy and David Sawyer, based in Grand Rapids, said in a 2-1 decision.

In his dissent, Judge William Whitbeck said there "is little question" that Michigan has failed to meet its responsibilities when it comes to the rights of criminal defendants who can't afford a lawyer.

But broad changes, he said, should be up to governors and lawmakers, not judges. Mike Steinberg of the American Civil Liberties Union, a co-counsel in the case, called the decision a "significant victory." While the lawsuit is aimed at three counties, any changes in how the indigent are represented would stretch elsewhere in Michigan.

"The ACLU will now have the opportunity to prove the criminal-justice system is broken for poor people accused of crimes," Steinberg said.

"When the defense system is dysfunctional, fair trials are impossible, innocent people go to jail and the guilty remain free to commit other crimes," he said.

A message seeking comment was left with the attorney general's office, which is representing the state in the lawsuit.

http://www.mlive.com/politics/index.ssf/2009/06/lawsuit_on_behalf_of_poor_defe.html