



Posted: July 20, 2010

Court rules in favor of unequal justice for poor defendants

It's a sad state of affairs when our state's highest court possesses neither the financial wherewithal nor any urgent sense of responsibility to uphold the constitutional rights of Michigan's most vulnerable citizens. But that is the inescapable conclusion to be drawn from the Michigan Supreme Court's abrupt about-face in a lawsuit brought by indigent criminal defendants and championed by judges and prosecutors across the state.

The plaintiffs in *Duncan v. Michigan* had challenged the state's deplorable system of providing legal counsel to poor defendants, arguing that the representation provided to such defendants in Berrien, Genesee and Muskegon Counties fell short of constitutional standards. Just three months ago, state Supreme Court justices unanimously allowed the lawsuit to proceed, setting the stage for a trial that could have established statewide standards for indigent defense.

Then, last Friday, four Republican justices who consented to the earlier court order inexplicably reversed themselves, adopting a dissenting lower court judge's opinion that the issues raised in the indigent defendants' suit were either premature or not amenable to judicial relief.

Only one of the four, Justice Stephen Markman, bothered to articulate his newfound objections to the plaintiffs' case, opining that nothing in the Sixth Amendment's guarantee of legal counsel required that lawyers appointed to represent the indigent be experienced, competent or required to establish a "meaningful relationship" with their clients. The other three justices -- Maura Corrigan, Robert Young Jr. and Elizabeth Weaver -- appear to have cynically concluded that, in a state preoccupied by widespread economic hardship, their indifference to the rights of a few impoverished outstate defendants will occasion little interest among voters.

Even prosecutors do not pretend that the current system guarantees fair trials for those too poor to hire their own attorneys. The number of individual convictions reversed and defendants exonerated after courts intervened to remedy the impact of ineffective legal counsel continues to mount, along with the cost to taxpayers who foot the bill for such do-overs.

Bipartisan legislation championed by state Reps. Justin Amash, R-Kentwood, Bob Constan D-Dearborn Heights, and Mark Meadows, D-East Lansing, would replace the current patchwork of locally funded defense systems with a statewide scheme that establishes uniform standards of competence and compensation. The Republican state Supreme Court majority's disinterest should not deter lawmakers from their responsibility to breathe life into a Bill of Rights that, however inconveniently, makes every Michigander equal before the law.