



June 12, 2009

Court sides with defendants on inadequate counsel

Poverty doesn't override right for protection, judge says

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LANSING – In a decision with potentially expensive implications for courts and taxpayers, a Michigan appeals court panel has sided with indigent criminal defendants who say the state's system for appointed counsel is inadequate and underfunded.

The court majority, in a 2-1 decision released this morning, said the accused criminals from Berrien, Genesee and Muskegon counties could proceed with their claim lawyers appointed to defend them are often unprepared and overworked.

"We cannot accept the proposition that the constitutional rights of our citizens, even those accused of crimes and too poor to afford counsel, are not deserving and worthy of any protection by the judiciary," said Judge William Murphy, who was joined in the majority by Judge David Sawyer.

Dissenting Judge William Whitbeck said claims of inadequate counsel have traditionally been dealt with by appeal of a conviction. Rectifying systemic failings in the appointment of indigent counsel should be left to the legislative and executive branch, he said.

Although the case decided today addresses claims only by defendants from the three counties, advocates for reform have targeted indigent defense statewide. They claim county-funded indigent defense in the state is among the worst in the country. At least \$40 million a year in additional funding would be required to raise spending here to the national average, they said.

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