

Court tosses suit over lawyers for poor

Case claimed low pay forced plea bargains

Ed White • Associated Press • July 17, 2010

DETROIT - The Michigan Supreme Court dismissed a lawsuit Friday that had the potential to force an overhaul of the way poor criminal defendants get attorneys, less than three months after a completely different order.

In a 4-3 decision, the court spiked the case for several reasons, many of them technical and procedural and not based on a full airing of the lawsuit.

The 2007 lawsuit claimed the rights of poor people had been violated because the paltry pay given to court-appointed lawyers routinely forces defendants into plea bargains. The case centered on Muskegon, Berrien and Genesee counties, but supporters had hoped any success would lead to change statewide.

Justice Stephen Markman said there is no constitutional right to a particular lawyer or one with a certain skill.

"We are shocked and disturbed by the Supreme Court's about-face," said Michael Steinberg, ACLU of Michigan legal director. "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."

The lawsuit claimed the state is ultimately responsible for how poor people are represented in criminal cases, although decisions such as how much lawyers are paid are made by counties.

In April, the Supreme Court unanimously sent the case back to the trial court for more work on whether it should be granted class-action status. The lawsuit was thrown out after the high court was asked to reconsider its spring order.

"What has changed warranting a different outcome now? ... Today's order slams the courthouse door in plaintiffs' face for no good reason," Chief Justice Marilyn Kelly said in a dissent endorsed by justices Michael Cavanagh and Diane Hathaway.

Markman, joined by fellow conservatives Maura Corrigan and Robert Young Jr., embraced the 2009 dissent of Michigan appeals court Judge William Whitbeck. He was in the minority in a 2-1 decision that had kept the case alive at that time.