

Michigan Supreme Court to hear public defender case

By John S. Hausman | Muskegon Chronicle

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MUSKEGON -- The Michigan Supreme Court next week will hear arguments over a potentially landmark lawsuit seeking to force the state to provide more money, oversight and training for public defenders in Muskegon and other counties.

The class-action lawsuit is on behalf of all indigent felony defendants in Muskegon, Berrien and Genesee counties. A coalition of advocacy groups including the American Civil Liberties Union sued the state and Gov. Jennifer Granholm in February 2007.

Last June, the Michigan Court of Appeals upheld a Lansing judge's May 2007 ruling that recognized the three counties' inmates as a "class" and kept the case alive, rejecting the state's bid to throw it out of court before trial.

The state appealed again, to the state's highest court. Next Wednesday, the Michigan Supreme Court will hear arguments from both sides.

That lawsuit has been in limbo for three years awaiting the outcome of the state's series of appeals.

The lawsuit alleges Michigan's county-run, county-funded system of court-appointed lawyers is so bad it fails to ensure the constitutionally mandated right to "effective assistance of counsel" for poor people charged with felonies. The ACLU argues that Michigan's and the governor's failure to provide money, oversight or training violates the U.S. and Michigan constitutions.

In preparation for the lawsuit, the ACLU coalition in 2006 collected evidence and interviewed criminal defendants in Muskegon and the other two counties.

Several other groups have filed briefs with the Supreme Court in support of the lawsuit, including the Criminal Law Section of the State Bar of Michigan.

The state argues that the plaintiffs have sued the wrong parties because the counties, not the state, have the responsibility to provide counsel for indigent defendants; that the Legislature, not the governor, has the power of the purse; that the proper remedy for ineffective lawyering is to appeal after a criminal conviction; and that the lawsuit fails to show any damages suffered by the plaintiffs.

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