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ORIGINAL

No. 2000-IA-01477

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

STATE OF MISSISSIPPI, RONNIE MUSGROVE, in his official capacity as GOVERNOR, and MIKE MOORE, in his official capacity as ATTORNEY GENERAL

Defendants-Appellants,

vs.

QUITMAN COUNTY, MISSISSIPPI,

Plaintiff-Appellee.

Plaintiff-Appellee
Quitman

On Appeal From The Circuit Court of the Eleventh Judicial District In and For Quitman County, Mississippi

BRIEF OF *AMICI CURIAE* SHERIFFS OF QUITMAN COUNTY, ET AL. IN SUPPORT OF APPELLEE QUITMAN COUNTY

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IN THE SUPREME COURT OF MISSISSIPPI

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GOVERNOR, and MIKE MOORE, in his official)
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OF APPELLEE QUITMAN COUNTY**

INTRODUCTION

As experienced Mississippi law enforcement officials charged with the responsibility of supervising law enforcement efforts of each of their respective counties, *amici* are particularly well-suited to address whether a full-time public defender office is desirable and necessary for the fair, efficient and effective administration of justice, and whether the addition of a full-time public defender office in the counties where no such office is present would further promote public confidence in law enforcement.¹ *Amici*

¹ A complete list of the *amici* who are filing this brief is set forth in the Appendix.

are uniquely positioned to attest to the virtues of a system with a full-time public defender office, as compared to one where public defenders represent indigent defendants on a part-time or contractual basis. Experience demonstrates that the system of justice runs more effectively with a full-time public defender office.

BACKGROUND

Quitman, Noxubee, Jefferson, Claiborne, Wilkinson, Lauderdale, Pike, Holmes, Coahoma, and Forrest Counties each have public defenders who are employed on a part-time or contractual basis, or have systems where private attorneys are appointed on a case-by-case basis. Hinds County formerly had a system of case-by-case appointments of counsel for indigent defendants, and since 1991 has had a full-time public defender office. The public defender system in each of the counties is operated on a county level. Each of the *amici* are sheriffs of their respective counties charged with enforcement of the law.

ARGUMENT

I. A FULL-TIME PUBLIC DEFENDER OFFICE IS AN INTEGRAL PART OF THE FAIR, EFFECTIVE AND EFFICIENT ADMINISTRATION OF JUSTICE AND EASES THE BURDEN ON LAW ENFORCEMENT OFFICIALS

By its nature, a full-time public defender office, such as the one the Mississippi Legislature authorized in the Mississippi Statewide Public Defender System Act of 1998, forms an integral part of the system of justice. *See* Miss. Code Ann. §§ 25-32-33.² If the indigent defense function is inadequate, every other component of the system necessarily must find a way to compensate for such inadequacies. Law enforcement in particular is adversely impacted because, among other reasons, indigent defendants unable to make bail, or who do not receive a speedy trial, languish in often overcrowded county jails waiting for the resolution of their cases. The failure of the indigent defense system can create a situation in which counsel is not appointed until late in the process, thus causing delay and potentially hindering chances of obtaining a conviction. Moreover, delay means a waste of resources. Sheriffs are often forced to adjust the expenditure of funds and, more importantly, other valuable resources supposedly earmarked for enforcement activities to ensure that these additional indigent defendants are monitored in the county system, even where such defendants belong in the state penitentiary, should have been released because of innocence, or end up serving more time waiting for the disposition of the case against them than they actually receive in sentencing.

² No funding was provided for implementation of the Mississippi Statewide Public Defender Act of 1998. The statute has since been repealed.

A clear demarcation of duties among law enforcement, prosecutors, and public defenders means the system as a whole benefits. In contrast, the system deteriorates on all fronts where any one component falls short of its constitutional obligations. The institution of a viable public defender system will promote public confidence in the Mississippi system of justice, which in turn will promote greater confidence and community cooperation in law enforcement efforts.

II. THE EXPERIENCE OF HINDS COUNTY DEMONSTRATES THAT A FULL-TIME PUBLIC DEFENDER OFFICE FACILITATES THE FAIR, EFFICIENT AND EFFECTIVE ADMINISTRATION OF JUSTICE

The experience of Hinds County, which has a full-time public defender's office, demonstrates that the availability and experience of the staff of a full-time public defender office facilitates the fair, efficient, and effective administration of justice. The prosecutor's office and the public defender office represent, respectively, the interests of the state in securing a conviction and the interests of indigent defendants in protecting their constitutional rights; together these, along with other concerns, compose the interests of the citizens of the State of Mississippi in a fair, efficient, and effective system of justice. The relationship created by an effective prosecutor and an effective public defender in any given matter promotes the public interest and the public trust in the system. This permits Sheriff McMillin of Hinds County to focus on the designated activities of law enforcement personnel without being diverted by the problems of indigent defendants, which problems are ably attended by their counsel. The full-time staff of the Hinds County public defender office is composed of committed and experienced professionals who are not distracted by the competing responsibilities similarly situated part-time public defenders owe to their clients in civil, and even other

criminal matters, in which they are privately retained as counsel. The unique problems indigent defendants face cannot be addressed adequately by part-time counsel without resources to support their own investigation and defense. As Sheriff McMillin is uniquely aware, it is precisely because of the presence and experience of the full-time public defenders that potential problems are resolved quickly and efficiently. The interests and efforts of the public defenders are balanced by those of the prosecutors, who have the resources to devote to the pursuit of criminal defendants. This creates a system that functions fairly smoothly.

Among other things, the full-time defenders in Hinds County help ensure that counsel is appointed early and present at the appropriate stages of the proceedings; that cases lacking sufficient evidence are dismissed quickly instead of taking valuable time on the docket; that defendants are given appropriate bail options, thus reducing the costs of imprisoning more pre-trial detainees than necessary; and that cases continue to move through the system rather than remain on the docket indefinitely due to counsel who is ill-prepared to proceed.

The presence of full-time public defenders also helps to promote judicial respect for the many complex and delicately balanced decisions that law enforcement agents make in the course of an investigation, arrest and disposition of a case. With the added experience of effective, full-time public defenders who are as essential to the system as experienced prosecutors and law enforcement officials, the question of effective assistance of counsel is no longer a distraction with which the court must concern itself. Once the court is assured that an indigent defendant has been provided with adequate counsel, the court is less likely to engage in second-guessing of law enforcement matters

that require the effective advocacy of counsel, such as questions regarding the proper exclusion or admissibility of evidence, voluntariness of a confession, and knowledge and understanding of plea arrangements.

III. THE EXPERIENCE OF THE SHERIFFS OF COUNTIES IN WHICH INDIGENT DEFENDANTS ARE REPRESENTED BY PART-TIME PUBLIC DEFENDERS DEMONSTRATES THE BURDEN IMPOSED ON SHERIFFS AND THE NEED FOR A FULL-TIME PUBLIC DEFENDER OFFICE

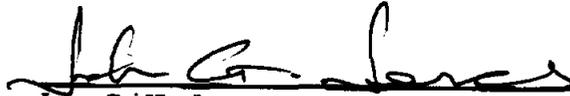
In contrast, the burden imposed on the sheriffs of Quitman and seventy-eight other counties – where public defenders are employed on a part-time or contractual basis, or attorneys are appointed on a case-by-case basis — handicaps law enforcement officials. While there is a single office these sheriffs can call when they need to speak with a prosecutor, there is no single defender office to call when a problem arises that defense counsel can help to solve. The justice systems in these counties often move more slowly because there are no full-time public defenders. Consequently, sheriffs house pretrial detainees far longer than is necessary, particularly where these detainees belong in the state penitentiary, should be released because of innocence, or end up serving more time in pretrial detention than they ultimately receive when their cases are finally resolved. These sheriffs expend too much time and effort resolving the problems raised by the presence of the many indigent defendants mired in the system without adequate representation. These problems include unpredictable and unforeseeable costs and resources that must be devoted to the detention of indigent defendants, the obligation to keep cases moving through the judicial system without counsel prepared and available to do so, and the overall difficulty of obtaining cooperation from unresponsive counsel

unable to devote time and resources of her own to the representation of such indigent defendants.

CONCLUSION

For the reasons set forth herein, the experience of Hinds County, with its full-time public defender office, contrasted with the experiences of Quitman, Noxubee, Jefferson, Claiborne, Wilkinson, Lauderdale, Pike, Holmes, Coahoma, and Forrest Counties, in which there is no full-time public defender office, demonstrates that a full-time public defender office is an integral part of a fair, effective, and efficient system of justice in the State of Mississippi.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that I, John Griffin Jones, have caused to be served by Hand or Mail on this 18th day of April, 2001 a true and correct copy of the following Motion for Leave to File Brief of *Amici Curiae* Sheriffs of Quitman County, et al. in Support of Appellee Quitman County and accompanying Brief of *Amici Curiae* on the following:

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