

Judge: Skagit County towns fail poor defendants

By GENE JOHNSON

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SEATTLE — Two Washington cities have systematically violated the constitutional rights of poor defendants to effective legal representation, a federal judge ruled Wednesday, blaming city officials for being "willfully blind" to the effects of their cost-cutting.

The state chapter of the American Civil Liberties Union sued the Skagit County towns of Mount Vernon and Burlington two years ago, alleging that public defenders there were so overworked that they amounted to little more than "a warm body with a law degree."

U.S. District Judge Robert Lasnik agreed. He issued a ruling Wednesday, following a two-week trial in June, that could have broad ramifications for how cities provide legal help to the poor: "In the state of Washington, there are undoubtedly a number of municipalities whose public defense systems would, if put under a microscope, be found wanting," he wrote.

The judge ordered the cities to hire a part-time public defense supervisor to oversee whether poor defendants are receiving adequate legal counsel, saying "the court has grave doubts regarding the cities' ability and political will to make the necessary changes on their own."

Lawyers involved said they believed it was the first time in the nation's history a federal court had appointed such a supervisor to oversee a public defense agency.

Sarah Dunne, the ACLU of Washington's legal director, said in an emailed statement she was thrilled to see the ruling this year, which marks the 50th anniversary of the U.S. Supreme Court's decision in *Gideon v. Wainwright* that the right to counsel applies in state courts as well as federal ones.

"The right to be represented by an attorney is essential to ensuring that everyone - rich and poor alike - has a fair day in court," Dunne said. "We've got a historic ruling enforcing that principle for towns in Washington."

Andrew Cooley, who represented the cities, said he was gratified the judge did not impose a case-load limit on their public defenders. The state Supreme Court has adopted such standards as it wrestles with how to improve the representation of indigent defendants, but they aren't scheduled to take effect until January 2015.

He also said the cities have doubled their public-defense budget since the lawsuit was filed, and it remained unclear whether officials could stomach spending any more. Instead, Burlington and Mount Vernon might simply disband their municipal courts, leaving Skagit County District Court to handle those cases.

Lasnik noted that two lawyers who formerly handled public defense cases for the cities each took on about 1,000 cases a year from 2009-2011 and often spent less than an hour per case. There was almost no evidence they investigated their clients' cases, met with their clients confidentially, or performed any legal analysis of the cases, the judge said.

Instead, they simply assumed police had done their jobs correctly.

"The services they offered to their indigent clients amounted to little more than a 'meet and plead' system," he wrote.

Since then, another firm, Mountain Law, has been retained to handle public defense in the cities, and that firm has made some improvements. Nevertheless, its attorneys also remain overworked and underfunded, he said.

Ironically, Lasnik said the failings of the public defenders in Mount Vernon and Burlington didn't necessarily result in their clients getting worse deals. With a note of chagrin, he said the penny-pinching of city administrators faced with tough budgetary times had also hit prosecutors, who in turn offered "overly lenient plea deals."

But that's not the point, Lasnik said: "Advising a client to take a fantastic plea deal in an obstruction of justice or domestic violence case may appear to be effective advocacy, but not if the client is innocent, the charge is defective, or the plea would have disastrous consequences for his or her immigration status."

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