

Merit in N.H. court funding suit

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"Legal remedies to be free, complete, and prompt: Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws."

— Article 14, New Hampshire

State Constitution

A team of lawyers, led by Chuck Douglas, former congressman and New Hampshire Supreme Court justice, filed a lawsuit Tuesday arguing that budget cuts have so crippled the courts that they can no longer meet their constitutional obligations.

The provisions guaranteeing citizens access to the courts "promptly" and "without delay" were written in 1784 and do not include any provision for delaying justice due to short-term budget problems.

While this paper has supported almost all austerity measures taken by the state, we did editorialize against the dramatic cuts to our court system, which have now, as predicted, begun to undermine justice in New Hampshire.

The courts now shut down one Friday a month while workers take an unpaid furlough day. A total of nine furlough days will have been taken by December and 14 by the end of the fiscal year June 30, 2011. The courts have eliminated per diem judges who, for a flat fee, are dispatched to understaffed courts to expedite cases. The judges don't receive benefits outside of pay for work done. In a letter written in July, John Broderick, the former chief justice who resigned in protest of the crippling budget cuts, estimated judge time across the state has dropped 20 percent.

"By law, certain cases, such as criminal arraignments, domestic violence and child abuse, take priority. Other cases will be delayed," Broderick wrote. "To families in crisis, prosecutors trying to protect communities and civil litigants trying to protect their rights and property, the budget resources we have now will not be enough."

Broderick's predictions have become reality, and that's why Douglas and the other lawyers filed suit.

"When people can't get into court, can't get their disputes resolved in a timely manner, their rights are being taken away," Douglas said.

"I've never seen it this bad in 42 years, where wholesale parts of the dockets are just canceled indefinitely, and there's no light at the end of the tunnel," Douglas said.

Justice is not a luxury that can be cut during hard times. It is the foundation on which our civil society rests. Individuals, families, businesses and governments all depend on a fair and timely system of justice to resolve disputes and mete out punishment.

The plaintiffs in the case illustrate the damage of the cuts.

One is a Manchester mother who is seeking court-ordered visits with her children and is also trying to regain custody.

"Other plaintiffs," reports the Associated Press, "include a mother who alleges her child's brain injury is the result of lead paint contamination, who's had a lawsuit pending since 2001, and a widow who has had a medical malpractice trial in the death of her 39-year-old husband postponed five times."

A fourth plaintiff claims he settled a suit out of court for far less money than he would have won if he had been able to have a jury trial. "Thus for him justice delayed was justice denied," the suit contends.

It's ironic the lawsuit probably won't be heard for months because of the court backlogs and we have to wonder how any New Hampshire court can possibly adjudicate a case where it so clearly has an interest.

Asked about this, Douglas told the Concord Monitor: "Someone has to decide, and we have no mechanism to bring a judge in from Kansas, so it has to be a judge here in New Hampshire."

But putting everything else aside, the suit clearly has merit and we agree in principle with the complaint.