

March 30, 2017

HB5033

Joint Committee on Ways and Means  
Public Safety Subcommittee  
Hearing Room 170  
3:00 p.m.

Written testimony of Morgen Daniels, AFSCME Local 2435 President, Appellate Division,  
Office of Public Defense Services

Co-Chairs Winters and Stark, members of the committee. Thank you for the opportunity to talk to you about the work that my colleagues and I do on behalf of poor people involved in Oregon's criminal and juvenile justice systems.

My name is Morgen Daniels. I am president of AFSCME local 2435, representing the attorneys in the Appellate Division of the Office of Public Defense Services. We are the appellate public defenders for the state of Oregon. We do criminal appeals and juvenile dependency and delinquency appeals from every county throughout the state. We also represent inmates who appeal the decisions of the Board of Parole and Post-Prison Supervision. We litigate our clients' cases in the Court of Appeals, the Oregon Supreme Court, and, very occasionally, in the United States Supreme Court. We are a firm of about 40 attorneys and 12 support staff. Our cases make up about 40% of the Court of Appeals' caseload and about 20% of the Oregon Supreme Court's caseload. We consistently receive positive feedback from the appellate courts about our work, and we are very proud to provide our clients with excellent representation.

You heard from our chief defender, Ernest Lannett, on Tuesday. He described the nuts and bolts of the Appellate Division's work.

We represent poor people who appeal trial court decisions in criminal and dependency cases. We advance and preserve individual rights in the criminal and juvenile justice systems. We help develop the criminal law that all Oregon courts and the public rely on and we serve as a resource for the trial bar, for the legislature, and for the general public.

Oregon statute gives all criminal defendants and juvenile dependency litigants the right to appeal trial court judgments. Many, if not most, of those people qualify for court-appointed counsel on appeal, and we represent them. So we are a busy, busy law firm. Every non-supervisory attorney in our office is working at or near caseload capacity. Our support staff—legal assistants and paralegals—each work with at least three lawyers, and a couple of them each support five or six attorneys.

The Appellate Division needs you to maintain our funding at current levels, if not increase it. Budget cuts could lead to reductions in staff. Cuts in our staff would mean that appeals would take even longer to resolve, that it would be harder for us to recruit and retain the best appellate attorneys, and that the quality of our work would suffer. Cuts in our staff would negatively impact the work of the attorney general's office, the Court of Appeals, and the Oregon Supreme Court, not to mention the circuit courts statewide that implement the decisions that result from our advocacy. Our clients, many of them incarcerated, would live in limbo as their cases

languished. Victims and families would likewise wait and wait and wait for closure. You've heard the saying, justice delayed is justice denied. Please don't let that happen in Oregon.

Chief Justice Warren Burger said eloquently in a 1970 speech to the ABA:

“A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgment of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law – in the larger sense – cannot fulfill its primary function to protect them and their families in their homes, at their work, and on the public streets.”

Please get in touch with me with any questions or concerns about the work we do. I would be happy to talk in person, by phone, or by email with any Committee member or legislative staff person to provide more information about the Appellate Division's work.

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