



South Carolina Commission on Indigent Defense

In cases involving criminal charges within the jurisdiction of magistrates' courts, municipal courts, or other courts with like jurisdiction, if a prison sentence is likely to be imposed following any conviction, the presiding judge of the court in which the matter is to be determined shall inform the accused as provided in Rule 2 when the case is called for disposition. The procedures concerning juveniles, as provided in Rule 1 and Rule 2 hereof, shall continue to be followed.



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Held: A suspended sentence that may “end up in the actual deprivation of a person’s liberty” may not be imposed unless the defendant was accorded “the guiding hand of counsel” in the prosecution for the crime charged. Argersinger, 407 U.S., at 40, 92 S.Ct. 2006. Pp. 1768-1776.

- (a) The controlling rule is that “absent a knowing and intelligent waiver, no person may be imprisoned for any offense... unless he was represented by counsel at his trial.” Argersinger, 407 U.S., at 37, 92 S.Ct. 2006. Pp. 1769-1770.



Rule 608

APPOINTMENT OF LAWYERS FOR INDIGENTS

- (a) **Purpose.** This rule provides a uniform method of appointing lawyers to serve as counsel or guardians ad litem (GALs) for indigent persons in the circuit and family courts.



WILBUR

v.

CITY OF MOUNT VERNON, et al.,

The Sixth Amendment to the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defense.” Plaintiffs filed this lawsuit in Skagit County Superior Court in order to challenge the constitutional adequacy of the public defense system provided by the City of Mount Vernon and the City of Burlington.



Municipal Liability under Section 1983

Under 42 U.S.C. § 1983, a municipality is a person and may therefore be liable for a constitutional deprivation. Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir. 2006).



The Court finds that the combination of contracting, funding, legislating, and monitoring decisions made by the policymaking authorities for the Cities directly caused the truncated case handling procedures that have deprived indigent criminal defendants in Mount Vernon and Burlington of private attorney/client consultation, reasonable investigation and advocacy, and the adversarial testing of the prosecutor's case. The Cities are therefore liable under § 1983 for the systemic Sixth Amendment violation proved by plaintiffs.



**WILBUR
v.
CITY OF MOUNT VERNON
ORDER AWARDING FEES AND COSTS**

Plaintiffs request an award of \$2,439,081.52 in fees plus \$43,496.50 in expenses as prevailing parties under 42 U.S.C. §1988.

Section 1988 authorizes an award of “reasonable attorney’s fees” in order to encourage individuals and attorneys to take on the burden of vindicating “important civil and constitutional rights that cannot be valued solely in monetary terms.” City of Riverside v. Rivera, 447 U.S. 561, 574 (1986).