

Editor  
Detroit Free Press  
600 W. Fort St.  
Detroit, MI 48226

Re: Series on Lloyd case  
Lack of Resources for Indigent Criminal Defense

Dear Editor,

I applaud David Zeman's reporting on the reasons behind the conviction of Eddie Joe Lloyd. Lloyd was recently exonerated by DNA evidence after a lengthy incarceration. It is clear from the series that ineffective assistance of counsel at trial and on appeal was a major reason an innocent man went to prison.

Michigan ranks at the bottom nationally in resources provided to defend poor people who are accused of crime. Earlier this year the president of the State Bar of Michigan, in an open letter to the entire bar of this state, decried Michigan's embarrassing position of rock bottom in the country in providing funding for criminal defense services for the poor [See President's Letter, *Michigan State Bar Journal*, Volume 81, No. 1, January, 2002, p. 8]. Everyone who works in criminal justice knows that the quality of justice depends on resources provided. Our adversary system cannot function when one side has the tools and the other does not.

I have worked at the State Appellate Defender Office for twenty-nine years handling complex appellate criminal defense litigation. As I enter private practice I am learning that I can continue to do this work for the poor only on a *pro bono* basis. I recently handled an appeal after a two-week trial. Reviewing the massive record and constructing an appellate brief consumed nearly a month of my time. In many of Michigan's counties fees are "capped" in such cases at \$1,500.00 to \$2,000.00. Overhead costs per month in private practice run well over those amounts. Thus, in order to handle an appointed appeal in a complex case, I would need to actually pay out of pocket. In other words I would receive *less* than nothing for my time.

The situation with respect to fees paid for trial defense for the poor is no better. In Wayne county trial fees have not increased for decades and were recently scaled back 10%.

The result is that in cases that require substantial time expenditure (which will include any case where someone who is actually innocent is charged with a serious crime), there are two possibilities for legal counsel for the poor. Either a capable attorney will be willing to donate his or her services and do a creditable

job or an attorney will take the case and do virtually nothing. The latter occurs all too often and this is what caused the incarceration of Eddie Joe Lloyd.

Recently, DNA exonerations topped 100 nationally. We know there are many innocent people in our prisons. Lack of adequate counsel is often the cause and it is the poor who are victimized.

Michigan's judiciary and its prosecutors are well paid. As they should be. Recently Michigan's appellate courts moved into an expensive new building in Lansing. There is nothing wrong with that either. What is wrong is failing to pay for legal services for the poor who are charged with crime.

Sincerely,

F. Martin Tieber  
President, Criminal Defense Attorneys of Michigan