

Copyright 2005 The Times (Shreveport, LA)  
All Rights Reserved  
The Times (Shreveport, Louisiana)

June 29, 2005 Wednesday

**SECTION:** EDITORIAL; Pg. 9A

**LENGTH:** 557 words

**HEADLINE:** Justice means legal counsel -- for everybody

**BODY:**

By Emily Metzgar

Last week, the U.S Supreme Court rendered a decision concerning the rights of indigent defendants. But it was dwarfed by outcry over the court's decision concerning government right to seizure of private property.

Granted, eminent domain is worthy of discussion. Still, the court's decision in *Halbert v. Michigan* has implications for Louisiana -- not least because the state of Louisiana weighed in on the side of the party whose arguments were rejected by the court.

The issue was, according to the New York Times, "whether indigent defendants have a right to a government-appointed lawyer to challenge aspects of a guilty plea." Reporting the decision, the Associated Press described the court's ruling as striking "down a Michigan law that barred state-paid legal help for defendants who plead guilty but then want to appeal."

But this wasn't about indigent defendants wanting to change their mind about pleading guilty. A representative of the National Association of Criminal Defense Lawyers explained. "Over 90 percent of felony convictions are obtained by guilty plea. This law (the Michigan law in question) denied "A people their right to effectively challenge their sentences on appeal through competent counsel." Last week, the court decided that indigent defendants accused of a crime to which they pled guilty had the right to further government-appointed counsel in appealing the sentence that resulted from that guilty plea.

Louisiana, through a friend of the court brief filed with 16 other states, expressed support for the Michigan law, arguing that states "can validly require waiver of constitutional rights as a condition of a guilty plea." How many defendants who have engaged their own lawyers are advised to waive their constitutional rights before pleading guilty? Not many. Being poor shouldn't force waiver of legal rights in any circumstances, and yet that was the opinion expressed by Louisiana and other states prior to the Supreme Court decision last week.

The court acknowledged heavy judicial workloads and the risk of frivolous appeals, but offered a simple solution: "When a defendant's case presents no genuinely arguable issue, appointed counsel may so inform the court." The court ultimately rejected the Michigan law that failed to equip a defendant to navigate the appeal process with legal representation, a process it called a "perilous endeavor for a layperson, and well beyond the competence of individuals (like the defendant in

Halbert v. Michigan) who have little education, learning disabilities and mental impairments."

That Louisiana would take a position advocating limitations on indigent defense is no surprise. But it hasn't helped the state's dismal reputation for failing to provide adequate legal counsel to indigent defendants. It may sound complicated, but the principle of justice for all is simple. The legal director of the American Civil Liberties Union observed, "In a nation that believes in equal justice under the law, people should be punished because they deserve it, not because they are too poor to afford a lawyer." Who could disagree with that? Louisiana did.

Emily Metzgar is a Shreveport-based freelance writer. Write her in care of The Times, P.O. Box 30222, Shreveport, LA 71130-0222.