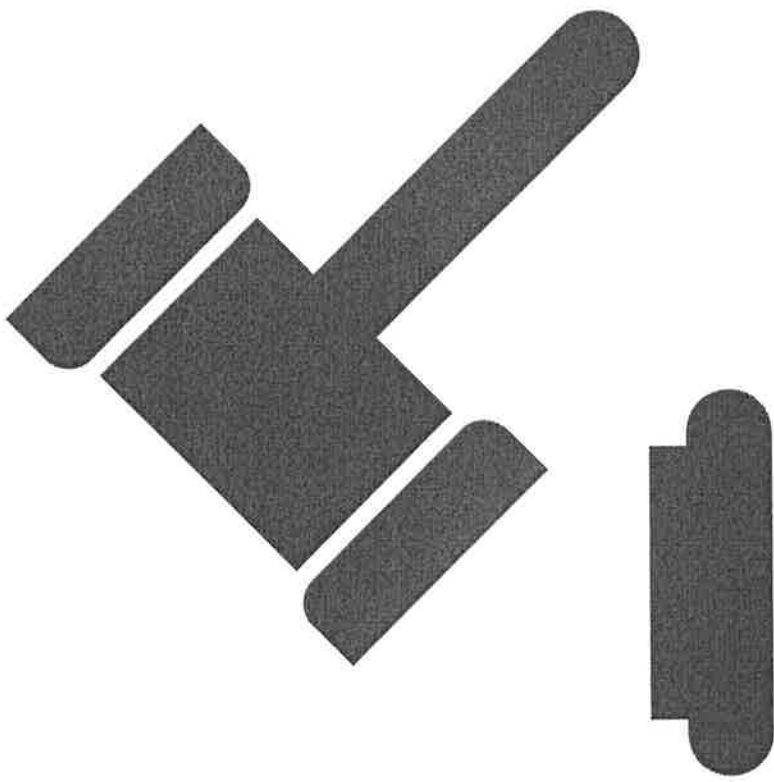


Tucker v. Idaho

Looking towards the seventh birthday of the challenge to the
system of public defense in Idaho

Background

- Filed June 2015
- Dismissed and Appealed - January 2016
- Reversed and Remanded - April 2017
- Class certified January 2018
- Interlocutory appeal - March 2019
- Remanded - April 2021
- Trial set for October 2023

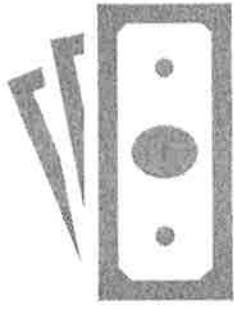


Tucker Complaint

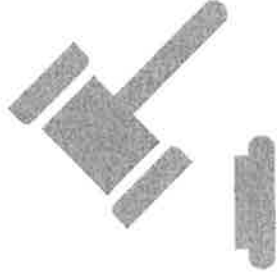
Issues From Allegations

- Lack of representation at initial appearance
 - Resulting in unnecessary and extended pre-trial detention
- Excessive caseloads and workloads
- Lack of meaningful communication with client
- Lack of investigation and expert analysis/testimony
- Use of fixed fee contracts
- Lack of independence
- Lack of supervision and evaluation

Relief Requested



Deadlines for the State to modify structure to include adequate oversight and funding



Injunction with Court monitoring, including implementation schedule for State oversight and funding

Relief Requested

- Appoint an external monitor to supervise public defense system to determine:
 - Whether public defenders are present to meaningfully assist and represent indigent defendants at initial appearance
 - Whether public defenders are actually absent at any other court appearances after appointment
 - Whether public defenders have the time and resources needed to meaningfully seek pre-trial release of their clients, including investigation to prepare for bond setting or bond reduction hearing

Relief Requested

- Appoint an external monitor to supervise public defense system to determine:
 - Whether public defenders are able to promptly and meaningfully respond to client contacts and complaints
 - Whether public defenders are fully explaining plea offers
 - Whether public defenders are able to adequately fulfill their role as advocate before the court on their client's behalf
 - Whether public defenders experience any undue pressure from county commissioners, judicial officers, PDC members or staff, to limit the time and resources committed to indigent defense caseload

Tucker | Appeal

And the Supreme Court Says . . .

- The State and the PDC have 'ultimate responsibility to ensure that the public defense system passes constitutional muster'
 - While delegated to the Counties, "the ultimate responsibility for fulfilling the . . . Constitutional duty cannot be delegated."
- Counties are not "third parties acting independently of the State with respect to public defense."
- "[T]he counties have no practical ability to effect statewide change, [therefore,] the State must implement the remedy."

Current PDC Rules

County Responsibilities

- Ensure effective representation
- Appropriate sufficient funds
- Provide resources
- Comply with contracting requirements
- Communication re compliance with PDC rules, including workloads and vertical representation

Defending Attorney Responsibilities

- Licensed and member of the Defending Attorney Roster
 - Apply laws and rules through legal research
 - Protect client confidentiality
 - Ensure vertical representation
 - Dedicate sufficient time
 - Investigate case, including requesting funds
 - Consider necessity of an expert
 - Presence at initial appearance, including Rule 46 information
 - Comply with workload limits
 - Identify private meeting space
 - Identify conflicts of interest
 - Be familiar with criminal law and strategies to employ in defense

Future Questions . . .

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