

Civil Gideon

My name is Martin Hying. I have lived in Mt Pleasant for many years. I am an IT professional and divorced parent. I would like to give my opinions, thoughts, and observations' regarding what happens to people who feel they cannot receive justice in the court.

The hearing held today discussing the court as a system is inaccessible to those lacking financial resources is in response to a very valid situation. However, these unbearable costs and workload are not exclusively a product of the pro se representation in civil matters. The law is not intentionally written to be complex. The costs are not inordinate exclusively because of participation by unrepresented citizens.

I believe there are very simple precepts that justice is based in that have been subverted by the court system.

All people are created equal. Yet judges provide preferences to attorneys over pro se representatives, even when pro se litigants file all forms properly and seasoned attorneys make fundamental failures including failing to serve papers properly.

All matters are to be held on record (Wis. Stat §757.14) , yet judges frequently take attorneys in chambers and hash things out behind closed doors, away from litigants where citizens are not allowed to hear what false and unsubstantiated accusations are leveled against them to bias the court in opposing parties favor.

The law applies to all, yet judges willfully perjure themselves in material facts related to due process (appeals case 2011-AP 1899W) with no accountability.

It is clear that whole classes of people get treated unfairly in the legal system, but this is not exclusively because of pro se representation. Paying for an attorney does not insure competency in the law in the only state with diploma privilege. The same diploma privilege + 5 years practice does not insure competent judges. As much as subcultures of "no rule of law" exist in the communities, these same reprehensible subcultures have developed within the politics of the courts.

While Civil Gideon addresses a narrow slice of the symptom, it goes to great lengths to advance the illegitimate behaviors of the corrupt court and fellow members of the oligopoly of the bar. A litigant's representation is no more or less at risk in front of a judge than when their trust is placed with an attorney who engages in unethical conduct in these aforementioned situations. Attorneys simply displace a litigant's lack of knowledge in the law and court procedure with a litigant's lack of knowledge of their client rights. It defers the problem instead of solving the problem.

The court system must accept accountability and responsibility for their portion of this dysfunction. I see this as an attempt to insure that attorneys are guaranteed payment. No other industry in this state is granted such broad assurances, particularly at the compensation levels that attorneys demand for their questionable services.

A much of a problem of pro se representation is described by the courts, an even greater problem is that the court and corrupt judges refuse to conduct matters on the record and follow due process. They would prefer to settle matters off the record in chambers (see court transcript from Sept 20, 2011. Oh, wait, that's right, the judge attempted to call attorneys to chambers before the record began so it isn't recorded) where there accountability and elitist procedures are prioritized over the ethical execution of their duties in an open system.

I believe that before the law abiding citizens of this state are straddled with further taxation to cover the costs of this representation, or other government programs are short changed to fund this, the court should start by insuring that all representation is performed according to the laws and that hearings are conducted on the record (Wis. Stat §757.14) regardless of pro se or bar approved counsel present. The court needs to purge those members of the judiciary, both attorneys and judges, that choose to execute their responsibilities outside of the law.

I believe that the appellate court is responsible to the citizens of this state, not exclusively the peers in the judiciary.

I believe that any elected or appointed person performing the role of judge, commissioner, or individual representing the judiciary on any committee should be held to a higher standard than diploma privilege, and should demonstrate proficiency by having to pass the bar exam before being appointed or (re)elected to the positions listed above.

These positions taken by multiple members of our judiciary are self serving and should not be confused with any noble intentions. The court, through its dysfunctional self policing practices holds greater responsibility for the disarray and demise of the respect for the establishment of the court than any actions of the pro se portion of society. And rather than performing their duties, they would rather surround themselves with aspiring peers in the judiciary that will collude with them to further foreclose the judicial system from all but the most financially secure in society (which would be these lawyers charging >\$200/hour for their services). I see the establishment of this service simply a stratification of the attorneys. (those that accept pro se cases, and those that no longer need to that charge a substantially higher rate) An attorney is no more motivated to take a potential pro se client in this situation then they would be to take a pro bono client.

As stated in the beginning, all people are created equal. The court should not assume that all litigants are incompetent in the law. Neither should it grant special privilege to attorneys that attempt to subjugate the court through their misconduct.

Why not mandate that all state bar members practicing law must provide at least 2 cases/year of pro-bono work in their area of practice to maintain their active status? If all 24,185 members each accepted 2 of the simplest cases pro bono, that would be more than 20,000 cases with proper representation of both parties that could be expedited from the court system, leaving the cases that could/should be adjudicated to be addressed by the judiciary that is claiming to be overworked. You could expand this to practices with more than 5 attorneys must take an additional 2 cases. Two cases should not be an unbearable financial burden on any individual attorney, and 12 cases across 5 or more attorneys should

not be an unbearable burden on any practice. There is no mandate that they must be the most complex cases, nor should cases be made unnecessarily complex to attempt to thwart eligibility.

The judiciary has methods to address this. There is pro bono service. There is the expected ethical conduct of judges and attorneys. In my opinion, these are far more appropriate methods of lowering the overall cost of litigation than insuring all attorneys are compensated for every action at rates far above the average income of fellow citizens collected at the expense of law abiding citizens.

I am an IT professional. I do not expect compensation every time my neighbor asks for assistance getting their wireless network in the home working, nor when I am referred a resident at a nursing home who is having issues printing a document to his printer. Yet I perform these requests without financial compensation because I believe my actions are simple common courtesy and goodwill. These matters can appear no less overwhelming or no less technically complex than the legal system appears to a litigant. Every other industry has examples of people who volunteer their services, yet I am pressed to find any seasoned lawyer that accepts pro bono cases on merit.

The system I agree is fundamentally broken. Creating a system that taxes the law abiding masses when the system has the mechanics in place to address this I believe is the wrong answer to the root problem of the caseload before the courts. Mandating that a portion of these public services are performed as a member of the state bar would add far greater value to society and demonstrate goodwill, an attribute that appears lacking in our judiciary.

Thank you for hearing me.

Martin Hying