

KERRY HECKMAN, et. al.,	§	
on behalf of themselves and	§	IN THE DISTRICT COURT OF
all other persons similarly situated,	§	WILLIAMSON COUNTY, TEXAS
	§	
Plaintiffs,	§	277th JUDICIAL DISTRICT
	§	
v.	§	
	§	
WILLIAMSON COUNTY, et. al.,	§	
	§	
Defendants.	§	

[PROPOSED] ORDER GRANTING CLASS CERTIFICATION

On October 4, 2006, after notice to the named parties, an evidentiary hearing was held to determine whether this case should proceed as a class action.

Kerry Heckman, Monica Maisenbacher, Sylvia Peterson, Elveda Vieira, Tammy Newbery, Jessica Stempko, and Kelsey Stempko, Plaintiffs, the proponents for class certification, appeared in person and by their attorneys of record. Defendants appeared by attorney of record.

After examining the record and hearing the evidence presented by the parties, the court finds that a class action should be certified pursuant to Rule 42(b)(2) of the Texas Rules of Civil Procedure, and makes the following rulings:

1. Pursuant to Rule 42(a) of the Texas Rules of Civil Procedure, Plaintiffs have met the requirements of numerosity, commonality, typicality, and adequate representation. Specifically, Plaintiffs have presented evidence that there are hundreds of members of the proposed class. Plaintiffs have demonstrated commonality and typicality

by a showing that the class presents only one legal theory, and by allegations that the Defendants have engaged in a common course of conduct against the members of the class. Plaintiffs have demonstrated that they are adequate representatives by affidavit testimony averring their commitment to prosecuting this litigation through their attorneys.

Pursuant to rule 42(b)(2) of the Texas Rules of Civil Procedure, the Court finds that the Plaintiffs have alleged that the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive or corresponding declaratory relief with respect to the class a whole. Specifically, the Court finds that the allegations in Section 3, below, are made on behalf of the class, and allege on grounds generally applicable to the class that the Defendants here have acted, or refused to act, in the manner outlined in Section 3.

2. Pursuant to 42(c)(1)(B) of the Texas Rules of Civil procedure, the class is properly defined as follows:

All individuals who are accused of a misdemeanor crime in Williamson County who face the possibility of incarceration as a punishment if convicted of such crime and who cannot afford counsel.

3. The class claims, issues, or defenses are as follows:

Plaintiffs claim that, acting under the color of state law and in violation of the United States and Texas Constitutions, Defendants maintain a custom, policy and practice of deliberately failing to inform accused persons of their right to counsel, providing inaccurate information to accused persons about their ability to qualify for appointed counsel, failing to provide counsel to indigent defendants who have requested such counsel, failing to adequately inform accused persons of the charges against them, and permitting Williamson County prosecutors to confront uncounseled accused persons regarding the merits of their cases without allowing them to request appointment of counsel, and

refusing to allow persons accused of crime to discuss their cases with a prosecutor unless such persons enter pleas of guilty or no contest, depriving persons accused of crime of the right to self-representation.

Plaintiffs further claim that, acting under color of the laws of the State of Texas, Defendants have routinely violated the requirements of the Texas Fair Defense Act and other Texas statutes relating to rights of indigent defendants to appointment of counsel.

Plaintiffs further claim that Defendants violate the Sixth and Fourteenth Amendments to the United States Constitution, as well as Article I, Section 10 of the Texas Constitution, which requires that all Texas courts be open.

4. The class representatives are Kerry Heckman, Monica Maisenbacher, Sylvia Peterson, Elveda Vieira, Tammy Newbery, Jessica Stempko, and Kelsey Stempko.

5. The class counsel appointed by the Court are Andrea Marsh and Harry Williams IV, Texas Fair Defense Project, 510 South Congress Ave., Suite 208, Austin, Texas, 78704.

The Court finds that Andrea Marsh and Harry Williams IV are adequate pursuant to Texas Rule of Civil Procedure 42(g)(1)(B) and (C) and are able to represent the interests of the class and hereby appoints Andrea Marsh and Harry Williams IV as class counsel.

Pursuant to Texas Rule of Civil Procedure 42(g)(1)(C), in evaluating class counsel, the court considered the following: (1) the work Andrea Marsh and Harry Williams IV have done in identifying or investigating potential claims in the action; (2) Andrea Marsh and Harry Williams IV's experience in handling class actions, other complex litigation, and claims of the type asserted in the action; (3) Andrea Marsh and

Harry Williams IV's knowledge of the applicable law; and (4) the resources Andrea Marsh and Harry Williams IV will commit to representing the class.

6. The Court finds that all legal issues are common to members of the class, that there are no individual claims for damages, and thus all claims can be adjudicated in a single trial on the merits of Plaintiffs' claims.

SIGNED on _____

Honorable Joseph H. Hart

CERTIFICATE OF SERVICE

I certify that a copy of the [Proposed] Order on Class Certification was served on September 26, 2006, on Stephen C. Ackley, attorney for all Defendants, by Certified Mail. I further certify that a copy of the [Proposed] Order was sent by U.S. mail directly to the Honorable Joseph H. Hart.

Harry Williams IV