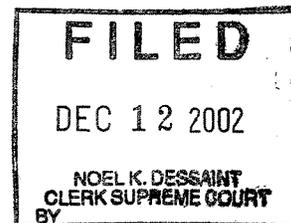


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter of:)
)
FISCAL EMERGENCY IN THE) Administrative Order
JUDICIAL BRANCH OF ARIZONA) No. 2002- 113
)
)
_____)

The state of Arizona faces the largest financial crisis in its history as evidenced by a deficit in the state general fund of approximately \$500 million in FY 2003 and a potential \$1 billion or more in FY 2004. As part of the legislature's efforts to balance the state's budget, it has reduced state general funds appropriated to the Judicial Branch by \$21,682,400 in FY 2002 and FY 2003. Because the state general fund money appropriated to the court system predominately funds the appellate courts and superior court probation services, those functions have been the most impacted to date.

However, the shared revenues distributed by the state to the cities and the counties will decrease significantly during the next fiscal year, which may further impact court operations at the local level. The Judicial Branch of Arizona, at all court levels, requires funding from state, county and city revenues in order to fulfill its constitutional and statutory mandates.

The budget reductions made thus far have been managed through vacancy savings, one-time transfers of accumulated funds earmarked originally for other purposes, reduced operations, and the elimination of positions and reduction of personnel. Sustaining these cuts beyond the current fiscal year will not be possible if the judiciary is to carry out its mandated responsibilities. Moreover, further reductions in state appropriations provided for the Judicial Branch will make it impossible to carry out its constitutional functions and statutory duties, including the ability to sustain probation departments in order to protect the public through effective supervision of the current sixty-four thousand felony offenders currently on probation in Arizona's communities.

Access to the courts and the timely adjudication of cases filed before Arizona's courts is guaranteed by the United States' and Arizona's Constitutions. ["Justice in all cases shall be administered openly and without unnecessary delay" (Art. 2, Sect. 11); Victims have a right "to a speedy trial or disposition and prompt and final conclusion of the case after conviction and sentence" (Art. 2, Sect. 2); and "Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the date of submission thereof" (Art. 6, Sect. 21)]. The Supreme Court "... shall have administrative supervision over all courts of the state" (Art. 6, Sect. 3) and, accordingly, is responsible for ensuring that the administration of justice in Arizona is carried out according to the dictates of the constitution, statutes and the common law. While the judicial branch will do what it can to reduce cost during this emergency, to fulfill its obligations, the Judicial Branch must be provided with reasonable and necessary funding.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that a *Fiscal Emergency* is declared in the Judicial Branch of Arizona. A *Fiscal Emergency* dictates that each superior court presiding judge examine all expenditures and sources of revenue available to the court and identify all constitutional and statutory mandates to ensure that such mandates are given funding priority.

IT IS FURTHER ORDERED that the Administrative Office of the Courts shall:

- (1) Implement a plan to reduce the budget of the Supreme Court, the Court of Appeals, and the Superior Court by \$6 million as dictated by S.B. 1001, passed by the Legislature during the November 2002 Special Session, and signed into law by Governor Jane D. Hull.
- (2) Ensure that the budget reduction plan preserves adequate resources necessary for the Judicial Branch to fulfill mandatory court responsibilities, including the Supreme Court's responsibility to provide administrative supervision over all courts of the state as required by the Arizona Constitution.
- (3) Preserve to the extent possible, the ability of local probation departments to perform their statutory duty to protect the public through effective supervision of offenders sentenced to probation and living in Arizona's communities.
- (4) Suspend the inclusion of the "report only probation cases" from the formula used to determine the allocation of probation officer positions, in order to make best use of available funding.

IT IS FURTHER ORDERED that Presiding Judges shall:

- (1) Develop and implement a plan to review probation cases to determine if any offenders on probation can safely be placed on a lower level of supervision, placed on unsupervised probation, or terminated early from probation. To the extent this action does not reduce the caseload in an amount sufficient to meet the statutory probation officer to probationer caseload ratios, local probation fees or other local funds shall be used to employ sufficient probation officers to meet these statutory requirements.
- (2) Utilize local funds available to meet constitutional and statutory duties. If additional local funding is not available, the presiding judge shall prioritize court activity and shift funds, as necessary, from discretionary to mandatory activity.
- (3) Ensure the expeditious processing of petitions to revoke probation. The timely handling of these pending cases will ensure that those who are appropriate for probation are receiving the proper level of supervision and to identify those who are no longer appropriate for continued probation services.

The enforcement of court ordered sanctions is important to maintaining the integrity of the justice system, providing support to victims, and sustaining local and state programs that depend on revenue generated from the payment of financial sanctions. In these difficult budgetary times, it is of paramount importance to ensure that those who are capable of satisfying the monetary requirements of their sentence do so.

IT IS FURTHER ORDERED that the following action shall be taken to improve the enforcement of court orders:

- (1) The AOC shall develop an automated interface between the AZTEC automation system and the Department of Revenue tax intercept program, and develop a schedule and the necessary training for all courts and probation departments to participate in the tax intercept program.
- (2) Each County Presiding Judge shall present a plan to the Administrative Office of the Courts by July 1, 2003, setting out a program to move all courts in their county to the tax intercept program by December 31, 2003, or as soon as reasonably practicable thereafter.
- (3) The AOC shall continue to work with the Arizona congressional delegation, the Conference of State Court Administrators, and other national groups to secure modifications in federal law to allow for the interception of federal tax refunds if a person owes state court ordered fines, fees, penalties, or restitution.
- (4) The AOC shall implement centralized collection activities if determined to be cost effective and feasible.

Dated this 12th day of December, 2002.

CHARLES E. JONES
Chief Justice