

Supreme Court Decision of Importance

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Coming before the village magistrate, Joseph H. decided it wasn't worth the trouble to claim he wasn't drunk and disorderly. He pleaded guilty, expecting to spend a night or two in jail.

In disbelief he listened to the village magistrate sentence him to six months at the state jail in Fairbanks.

This happens all the time in Alaska's villages. Though this name is fictitious, dozens of natives have found themselves in the same problems.

Now, according to a Supreme Court decision delivered last week, defendants in all criminal cases, even misdemeanors, are entitled to a court appointed lawyer. If the defendant cannot afford a lawyer, the state must provide one through the public defenders agency.

The affects of the decision in the case of Kathleen Alexander could be heavily felt in the state if people in bush areas begin demanding their right to representation of an attorney, explained public defender Dick Madsen of Fairbanks. In the vast majority of cases in his experience, he explained, they do not.

"Unfortunately," he told the

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Supreme Court . . .

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TUNDRA TIMES, "the majority of people in village areas will continue to plead guilty."

The court decided in the case of Kathleen Alexander, who was arrested and charged with loitering in Anchorage, that the district court and superior court had erred in not appointing counsel to represent her.

The opinion of the Supreme Court, written by retiring Justice John H. Dimond, said the Alaska court was extending the right to counsel in misdemeanor cases although it had not been decided by the Supreme Court of the United States.

"It seems clear enough that the court has not yet extended the right to assign counsel for indigent defendants in all types of criminal prosecutions.

But this does not preclude us from acting in this field in interpreting our own constitutional provisions guaranteeing the assistance of counsel for an accused's defense in all criminal prosecutions"

In reversing the Anchorage Superior Court decision by Judge James M. Fitzgerald the court cited its 1970 decision that the accused is entitled to a jury trial in any criminal case.

In this decision, *Baker v. Fairbanks*, it ruled that a criminal prosecution involves any offense which could lead to incarceration, loss of valuable license or "heavy enough fine to indicate criminality."

"We further hold, in conformity with well reasoned opinions of other jurisdictions, that such right to the assistance of counsel means that counsel must be appointed at public expense to a misdemeanor defendant who is indigent and too poor to have his own lawyer."

While the Fairbanks office now has sufficient staff to handle extra court referrals, the Anchorage public defenders office plans to add two attorneys to its staff in the near future.

In Fairbanks, according to Public Defender office head Dick Madsen, both judges and the public defenders had been

acting in anticipation of the Supreme Court decision for several months.

Two law clerks, scheduled to arrive in December for a nine month stay, will give the Fairbanks public defenders the facility to appeal many unreasonably harsh magistrate's sentences.

"We don't get these cases till people arrive in jail in Fairbanks," explained Madsen. "Some guy will come in from Tok or Tanacross where he was arrested for drunkenness. He pleaded guilty expecting to get off easy and ends up sentenced to six months."

Lawyers emphasize that any person accused of a crime—drunkenness, loitering, traffic offenses—should have no hesitation about demanding his rights to an attorney.

In appeals of sentences, the public defenders hope to "make it tough enough on the district attorneys so the magistrates will get the word when their sentences are too harsh."