

For immediate release

September 11, 2006

Contact information

Jonathan Rosen 646-452-5637

FEDERAL APPEALS COURT ORDERS RECONSIDERATION OF
CONSTITUTIONALITY OF RESTRICTION ON FUNDING FOR
LAWYERS FOR THE POOR

*Further Legal Proceedings Are Now Necessary to Determine Fate of
Low-Income Clients Seeking Needed Legal Assistance*

New York, NY – In a case concerning the constitutionality of a federal rule governing how civil legal services programs can spend their non-federal funds, a federal appeals court ruled Friday that a federal district court must reconsider the constitutionality of a rule that is depriving thousands of low-income people of access to lawyers in critical civil cases. Without weighing in on the constitutionality of the rule, the U.S. Court of Appeals for the Second Circuit lifted a preliminary injunction entered by the district court and ordered that court to apply a different legal standard to the rule.

The New York-area legal services programs that brought the case are considering their options. “We believe the district court was correct in its careful decision, and in its order protecting legal services lawyers from suffering undue burdens on their ability to use their non-government funding to help their clients,” says Burt Neuborne, Legal Director of the Brennan Center for Justice. “While the legal fight continues, it’s time for Congress to fix this law for once and for all.”

At issue in the case is the ability of legal services programs that receive some funding from the federal Legal Services Corporation (LSC) to use their *non-federal* dollars to finance critical services such as representing clients in class action lawsuits, claiming court-ordered attorneys’ fee awards, or providing assistance to certain categories of legal immigrants. Under the challenged rule, the only way for a legal services office to use its own money to bring the restricted cases is to establish a physically separate facility with separate personnel. A broad and diverse coalition of legal, civil rights, bar associations and faith-based groups – including the National Association of Evangelicals, AARP, the American Bar Association, and Prison Fellowship – has called on Congress to fix this wasteful and onerous “physical separation requirement.”

Complying with this requirement is so expensive that virtually none of the 138 LSC grantees around the country – which are already so cash-strapped that they can only represent a small fraction of eligible clients – have been able to do so. For example, plaintiff South Brooklyn Legal Services would have to turn away 500 more people each year if it set up a separate office.

“We will continue to fight to ensure that many more of the most vulnerable people in our city will be able to get the legal help they so desperately need,” says Andrew Scherer, executive director of plaintiff Legal Services for New York City. “We must be able to use our scarce resources as efficiently as possible to help low-income families facing eviction, elderly victims of predatory lending, people preparing to reenter society from prison, disabled children in need of medical care, and immigrant workers wrongfully deprived of their paychecks.”

The ruling comes in two consolidated cases: *Velazquez v. Legal Services Corporation*, and *Dobbins v. Legal Services Corporation*. The cases were brought by three civil legal services programs – Legal Services for New York City, South Brooklyn Legal Services, and Farmworker Legal Services of New York – and by their clients and private funders. The plaintiffs are represented by the Brennan Center for Justice at NYU School of Law and by Kaye Scholer LLP.