

IN THE COURT OF APPEALS OF IOWA

No. 7-459 / 06-0371
Filed July 25, 2007

STATE PUBLIC DEFENDER,
Plaintiff-Appellant,

vs.

IOWA DISTRICT COURT FOR JOHNSON COUNTY,
Defendant-Appellee.

Appeal from the Iowa District Court for Johnson County, Stephen C. Gerard, District Associate Judge.

The State Public Defender, on certiorari review, claims the court erroneously ordered it to pay attorney fees in conjunction with a criminal case.

WRIT SUSTAINED.

Thomas G. Becker, State Public Defender and Mark C. Smith, First Assistant State Public Defender, for appellant.

Janet Lyness, Johnson County Attorney, and Jeffrey Fields, Iowa City, for appellee.

Considered by Sackett, C. J., and Vogel and Miller, JJ.

VOGEL, J.

Attorney Jeffrey Fields filed a claim with the State Public Defender seeking payment of attorney fees for representing a defendant in a criminal case. The Public Defender denied the claim specifically citing Fields's failure to file the claim within forty-five days of the disposition of the case, as provided for in Iowa Code section 815.10A(2) (2005). Fields responded by filing with the district court a Motion for Fee Review Hearing in which he claimed the Public Defender's denial did "not adequately notify [him] of grounds for refusing to pay" the claim. Following a hearing, the district court, without addressing the untimeliness of Fields's claim, found that his fee claim was "fair and reasonable" and ordered that the Public Defender pay such claim.

In a motion pursuant to Iowa Rule of Civil Procedure 1.904(2), the Public Defender urged the court to reconsider, noting the court's failure to "identify any constitutional, statutory, or other basis for not affirming" the denial. Despite the fact that Fields never argued the constitutional infirmity of section 815.10A(2) and without any citation to authority, the court determined the forty-five day statute of limitations is "arbitrary and unreasonable and denies attorney Fields equal protection under the law [because] other persons who provide goods or services to the State of Iowa are not subject to such an arbitrary period of time" This case is now before us pursuant to the Public Defender's petition for writ of certiorari.

Upon our review for correction of errors at law, see *Fisher v. Chickasaw County*, 553 N.W.2d 331, 332 (Iowa 1996), we sustain the writ. First, it is undisputed that Fields did not timely file his fee claim, and therefore was not

statutorily entitled to payment. See Iowa Code §§ 13B.4(c)(2)(a) (Public Defender may deny untimely fee claims); 13B.4(4)(d)(5) (Public Defender's denial of fee claim shall be affirmed unless it conflicts with rule or law); 815.10A(2) (forty-five day claim period). Second, it was improper for the court to advance attorney Fields's case by sua sponte declaring the provision invalid on constitutional grounds. See *State v. Glanton*, 231 N.W.2d 31, 35 (Iowa 1975) (stating the judge should not assume the role of a partisan or advocate).

Finally, even if the constitutional argument had been properly before the court such that the Public Defender would have been allowed the opportunity to respond, we would conclude section 815.10A(2) did not violate Fields's equal protection rights. Even assuming Fields, as a court-appointed attorney, has been treated differently than other similarly situated persons, there is no fundamental right or protected class involved. *Kuta v. Newberg*, 600 N.W.2d 280, 288 (Iowa 1999). Thus, we must simply determine whether it passes constitutional muster under a rational basis review. See *Midwest Check Cashing, Inc. v. Richey*, 728 N.W.2d 396, 404 (Iowa 2007). This requires only that the law "be rationally related to a legitimate state interest." *State v. Simmons*, 714 N.W.2d 264, 277 (Iowa 2006). We conclude the legislature could have reasonably determined a forty-five day time frame was appropriate, considering that attorney fees are ultimately recoverable from the criminal defendant. Determining the extent of that obligation in a timely fashion and thereby denying untimely fee claims does not render Iowa Code section 815.10A(2) unconstitutional on equal protection grounds. We therefore sustain the writ.

WRIT SUSTAINED.