



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

April 26, 2023
(SENT BY EMAIL)

The Honorable Janeen Sollman, Co-Chair
The Honorable Paul Evans, Co-Chair
Joint Committee on Ways and Means
Subcommittee on Public Safety
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Re: Responses to Committee Questions Regarding Application Contribution Program

Dear Co-Chair Sollman, Co-Chair Evans, and Members of the Subcommittee,

In Monday's informational meeting on the Application Contribution Program (ACP), Representative Helfrich asked for information about why a person in a specific case received court-appointed counsel. I hope this information helps respond.

Before I respond to the specific question, I want to acknowledge your comments about the importance of consistent application of the laws and processes governing the ACP program. The Oregon Judicial Department (OJD) takes that responsibility seriously and has been taking steps since the pandemic disruptions to make sure programs are adhering to guidelines. Specific steps OJD has taken in the last year include:

- Ongoing discussions with Presiding Judges and Trial Court Administrators;
- Memos to courts as recently as March 17, 2023, to provide programmatic updates and re-emphasize the importance of the program; and
- Monthly statewide meetings for court staff performing ACP functions focused on adherence to guidelines.

As always, we appreciate hearing of any instances where there are questions so that we can provide information and address any issues if they arise.

Representative Helfrich cited a news article from April 21, 2023, that stated an individual had a state salary of \$167,000 per year, and asked how a person with that income level could be eligible for court-appointed counsel. As I mentioned in the meeting Monday, Oregon law makes confidential the financial information submitted by a person seeking court-appointed counsel. While I am not able to provide confidential information submitted as part of that case, I can say

that the court reviewed the defendant's application for court-appointed counsel and found him eligible. I can also provide some additional information that may be helpful.

The same article to which Representative Helfrich referred said that the defendant had been removed from his position as an administrative law judge with the Office of Administrative Hearings in the Executive Branch of Government but did not specify a date of the removal. In addition, a previous news article from April 11, 2022, stated that he had been placed on unpaid administrative leave. Those two stories combined indicate that the defendant might not have received that state salary, or any significant income, for a year while this case was pending.

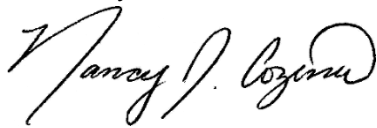
In addition, the defendant's marriage was dissolved in March 2022, shortly before he was indicted on the current charges. The judgment in the dissolution proceeding significantly changed his financial circumstances. He did not own real property, had ongoing child support obligations, and had minimal personal property or other assets. These factors, in addition to his lack of income at the time he applied for court-appointed counsel, made it likely that the ACP calculator we discussed in the meeting would calculate that he was eligible for court-appointed counsel.

It is also important to remember that this individual has not yet been sentenced and can be ordered to pay attorney-fee recoupment costs during the sentencing proceeding, currently set for May 11, 2023. As I mentioned Monday, the court can order attorney-fee recoupment at the end of a case, in addition to any fines, fees, and costs in the case.

In closing, I again want to emphasize that OJD recognizes the importance of accurate verification of applications for court-appointed counsel. We are committed to making timely, accurate decisions in these matters and will continue our efforts to ensure that happens.

I hope this information is helpful. Please let me know if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy J. Cozine". The signature is fluid and cursive, with a large initial "N" and a stylized "C" at the end.

Nancy J. Cozine
State Court Administrator

NC:jm/23eNC009jm