

Friday, July 27, 2007

In defense of the speedy trial dismissal.

Photo from website of U.S. District Court (W.D. Mi.).
The Sixth Amendment to the United States Constitution guarantees the right to a speedy trial in criminal litigation. Fully honoring the speedy trial right, a trial judge in the county where I live and work recently dismissed a prosecution due to long delays in finding an interpreter for the defendant sufficiently to understand -- and to testify during -- the serious criminal proceedings against him for alleged sex offenses against a seven-year-old girl. Too often, I see prosecutors, police, and even judges being flippant and insensitive in countless other ways about litigants' abilities to speak and understand English as a second language. I challenge them to try to learn a second language flawlessly, and to see how well they can understand that language in a court of law, let alone to testify in that language or to have the case involve their life and liberty. I know how hard this is to do, having spoken French in-depth for over thirty years, and still needing to revert to the subtitles in French-language films. Thanks to Judge Katherine D. Savage for breathing life into the Constitution's speedy trial guarantees by dismissing the prosecution for the lengthy delays in obtaining a qualified interpreter in this sexual assault case. Admittedly, finding such an interpreter was made all the harder by the small number of people who speak the now-dismissed defendant's primary language. However, once it was known how challenging it would be to find such an interpreter, such efforts as calling other courts around the nation for interpreter recommendations clearly was not enough. For a defendant with such liberty interests at stake, it was not unreasonable even to look abroad for an interpreter. Such an expense is reasonable compared to the personal costs of being imprisoned, and the taxpayers' costs of imprisoning people. Thanks to the dismissed defendant's criminal defense lawyer who successfully argued to get his case dismissed for the violation of his speedy trial rights. I have known this lawyer for a dozen years; she is one of the kindest and most decent people I know. For over fifteen years, I have known the prosecutor in the case, who at least can identify with criminal defendants more than plenty of other prosecutors can, by her having been a Maryland public defender lawyer for many years before joining the county state's attorney's office. Jon Katz.

Posted by Jon Katz in Criminal Defense at 01:00