

Better Legal Aid access saves taxpayers' money, improves justice system

ANDRÉ FAUST
COMMENTARY

Abraham Lincoln had it right when he said "He who represents himself has a fool for a client."

Given a choice, most persons accused of a crime would prefer a lawyer represent them in court. But not everyone has a choice. The poor are denied access to justice when they cannot afford to pay legal fees of \$125 per/hour or more. And when they turn to New Brunswick Legal Aid for help with summary offenses such as assault, they are refused.

Where a middle-class or wealthy person hires a lawyer to stickhandle the same offense through the system, a poor person has to defend herself or plead

guilty. If she challenges the system, she ends up representing herself in court – becoming "the fool" of Abe Lincoln's legal maxim.

As a result, we see a growing number of low-income, self-represented litigants and accused who have become a standard feature in New Brunswick's civil and criminal courts.

According to the Canadian Bar Association, the cost of self-representation is expensive to both the accused and the taxpayer. The self-represented consume significantly more court time and resources than those with legal representation and they lose more often than they win.

The Charles Leblanc case is a glaring example of Legal Aid's abject failure to help low-income persons make their

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way through the justice system. It also shows that self-representation costs considerably more to the taxpayer than a Legal Aid lawyer.

In January, the controversial blogger was charged with the summary offence of assault, an accusation he vigorously denies. LeBlanc has been diagnosed with ADHD and epilepsy and receives a monthly income assistance cheque of \$576. He lives in subsidized housing and cannot afford a lawyer. He applied twice for Legal Aid but was refused. If found guilty, LeBlanc could go to jail, lose his apartment and become homeless.

Given the circumstances, LeBlanc believes he has no choice but to represent himself in court. A group called Friends For Justice has set up a website <http://charlesleblancdefencefund.com/> and raised more than \$1,100 with a goal of \$5,000 to pay for a lawyer and give LeBlanc a legal defence. Until then, however, LeBlanc continues to have a "fool for a client," as Abe Lincoln would say.

Leblanc's first court appearance as a self-represented accused was on Jan. 19 before Justice Julian Dickson. Since then, he has appeared five more times before Justice Mary Jane Richards and Justice Brian McLean along with Crown prosecutor Sebastien Michaud, who has

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been brought in from Edmundston.

Two recent hearings on July 7 and Aug. 26 took 12 hours, the last one to question two members of the Miramichi Police Force who received the original assault complaint at the request of the Fredericton City Police. These two officers have travelled to Fredericton at least nine times on taxpayers' expense, perhaps more.

Anyone who has sat in on the proceedings would agree it is painful to watch LeBlanc struggle with complex legal processes while begging the judge to appoint a Legal Aid lawyer. If previous hearings are any indication, the next session will be at least eight hours. And if

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the case goes to trial, it could be very lengthy with LeBlanc representing himself.

The costs to the taxpayer are surely in the tens of thousands of dollars by now and there is no end in sight, but what is an accused to do if he believes he is innocent? Ironically, had a Legal Aid lawyer argued LeBlanc's case from the beginning, this would have been resolved months ago, and the cost to the taxpayer would have been significantly reduced.

The problem is that policies making civil and criminal Legal Aid available for the working poor, seniors, students and those on income assistance are at the bottom of the priority list across Canada. The common denominator seems to be costs. Accessibility to Legal Aid is a budgetary matter and budgets determine one's eligibility, not justice.

Justice Minister Stephen Horsman must order changes to Legal Aid that will make it easier for New Brunswickers to qualify for assistance and get the necessary representation to resolve their legal issues.

If not, we will have more poor people tying up the courts and costing the taxpayer tens of thousands of dollars for cases that could be resolved quickly and easily with a Legal Aid lawyer.

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