

SUPREME COURT OF SOUTH CAROLINA

In re Access to Justice Commission

410 S.C. 342 (2014) · Decided October 20, 2014

SUMMARY

This South Carolina Supreme Court administrative order establishes and governs the membership, appointment structure, terms, and responsibilities of the South Carolina Access to Justice Commission. The Commission is charged with assessing unmet civil legal needs, developing statewide civil legal-services strategies, coordinating providers, supporting funding, and expanding access to justice for low-income and modest-income South Carolinians.

CASE DETAILS

COURT	Supreme Court of South Carolina
JURISDICTION	South Carolina
DECIDED	October 20, 2014
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of South Carolina issued an administrative order governing the composition, appointment, terms, and responsibilities of the South Carolina Access to Justice Commission.
PRECEDENTIAL VALUE	Published administrative order; primarily institutional and administrative rather than a conventional adjudicative precedent.

TOPICS

administrative law civil rights

PRACTICE AREAS

administrative law civil rights access to justice legal services

QUESTIONS PRESENTED

1. What membership structure, appointment authority, and term limits should govern the South Carolina Access to Justice Commission?
2. What goals, purposes, and responsibilities should the Commission have in expanding access to civil justice in South Carolina?

HOLDINGS

1. The Court established a twenty-five-member Access to Justice Commission with specified categories of members, appointment authorities, term lengths, and a maximum of two terms for members at the discretion of the Chief Justice.
2. The Commission is charged with identifying unmet civil legal needs, developing a statewide civil legal-services strategic plan, coordinating legal and nonlegal service providers, supporting funding and resource development, promoting efficient collaboration, developing access-to-justice initiatives, and addressing the needs of people who do not qualify for existing assistance programs.

KEY QUOTATIONS

“The South Carolina Access to Justice Commission was established on January 31, 2007, by Order 2007-01-31-01, in recognition of the need to expand access to civil legal representation for people of low income and modest means in South Carolina.” (410 S.C. at 342)

“Develop and implement other initiatives designed to expand civil access to justice, such as increasing community education, enhancing technology, developing assisted pro se programs, and encouraging greater voluntary participation of the private bar in pro bono legal assistance to low-income people in South Carolina.” (410 S.C. at 345-346)

FACTUAL BACKGROUND

The South Carolina Access to Justice Commission was established to expand access to civil legal representation for people of low income and modest means. The order identifies twenty-five appointed members drawn from the judiciary, practicing lawyers, civil legal services organizations, law schools, public bodies, philanthropic organizations, the congressional delegation, and the business community. It assigns the Commission responsibilities concerning assessment of unmet legal needs, strategic planning, coordination, funding, resource allocation, community education, technology, assisted self-representation, pro bono participation, and the needs of people who do not qualify for existing assistance programs.

PROCEDURAL HISTORY

The Commission had been established by a January 31, 2007 order of the Chief Justice. In this order, the Supreme Court set forth the Commission's membership structure, appointment provisions, term limits, and goals and responsibilities.

DISPOSITION

other

OPINION

PER CURIAM.

ADMINISTRATIVE ORDER (a) Purpose. The South Carolina Access to Justice Commission was established on January 31, 2007, by Order 2007-01-31-01, in recognition of the need to expand

access to civil legal representation for people of low income and modest means in South Carolina.
(b) Membership.

The Access to Justice Commission shall consist of twenty-five appointed members. Members shall *343serve terms for up to three years for a maximum of two terms at the discretion of the Chief Justice. The Chief Justice shall designate a Chair from the membership. Members will be appointed as follows: (1) Judiciary: (a) The Chief Justice shall appoint five representatives of the Judiciary consisting of: (i) A Justice from the Supreme Court designated by the Chief Justice; (ii) A Judge from the Federal District or Federal Bankruptcy Court for a three-year term; (iii) A Circuit Court Judge for a three-year term; (iv) A Family Court Judge for a three-year term; (v) A Judge representing either Probate or Master-in-Equity or Magistrates Court appointed by the Chief Justice to serve a three-year term; (b) The Chief Justice shall appoint one state Clerk of Court representative to serve for one three-year term; (c) The Director of South Carolina Court Administration and the counsel to the Chief Justice shall serve as ex-officio members.

(2) Practicing Lawyers: (a) The South Carolina Bar president will appoint one officer member to serve for a term of one year; (b) The South Carolina Bar Foundation president will appoint one officer member to serve for a term of one year. (c) The Chief Justice will appoint one member from the South Carolina Association for Justice for a three-year term; (d) The Chief Justice will appoint one member from the South Carolina Defense Trial Attorneys' Association for a three-year term; (e) The Chief Justice -will appoint one member from firms of more than 15 members for a three-year term. (f) The Chief Justice will appoint one member from firms of less than 15 members for a three-year term; (g) Of the practicing lawyer appointments, at least one member shall be in practice for less than 10 years. *344(3) Civil Legal Services: The Chief Justice will appoint five members to represent the interests of legal aid programs as follows: (a) One board member and one staff member from South Carolina Legal Services to serve a three-year term; (b) One representative from Appleseed Legal Justice Center to serve a three-year term; (c) One representative from the South Carolina Bar Pro Bono Committee or Program to serve a three-year term; and (d) One representative from any other civil legal services program to serve a three-year term.

(4) Law Schools: The Chief Justice will appoint one representative from each of the accredited law schools in South Carolina who will serve a three-year term. (5) Public Members: (a) Governmental Representative: The Chief Justice will invite the Governor or his or her designee and two representatives from the South Carolina General Assembly to serve on the Commission for a two-year term. (b) Philanthropic Organization Representative: The Chief Justice will appoint one member from any recognized philanthropic organization to the Commission for a two-year term. (c) Congressional Delegation: The Chief Justice will appoint one representative from the State's congressional delegation for a two-year term. (d) South Carolina Business Community Representative: The Chief Justice will appoint one member to the Commission from the business

community in South Carolina to serve for a two-year term from the Association of Corporate Counsel, South Carolina Chapter.

(6) General Appointments: The Chief Justice may appoint additional members at his or her discretion. (c) Responsibilities. The Commission is charged with the following goals, purposes, and responsibilities: *345(1) Identify and assess current and future needs of low-income South Carolinians for access to justice in civil matters by examining the full range and volume of such unmet legal needs periodically.

This evaluation should: (a) determine and document how unrepresented people with legal disputes are attempting to meet these needs without attorneys, the extent to which these efforts are successful, and the consequences of the lack of attorney representation; (b) recognize the enormous efforts currently being made by attorneys to serve low-income South Carolinians; (c) analyze the need for funding and other resources to close the gap; and (d) address any other matters related to the delivery of equal access to justice in civil matters to all South Carolinians.

(2) Develop a strategic plan for delivery of civil legal services to low income South Carolinians throughout the state that will assist with the education of the public about the large gap between the ideal of equal access to the legal system and the reality of lack of representation.

(3) Foster coordination within the civil legal services delivery system and between legal aid organizations and other legal and non-legal organizations. (4) Support increase of resources and funding for access to justice in civil matters. Analyze feasible options and strategies for pursuing such funding. Examine additional state, local, and other non-IOLTA funding.

(5) Encourage wise and efficient use of available resources through collaboration among legal aid and other organizations including other legal advocacy groups, non-legal advocacy groups, providers of social services, law schools, the court system, corporate and government law departments, and other state and local agencies.

(6) Develop and implement other initiatives designed to expand civil access to justice, such as increasing community education, enhancing technology, developing assisted pro se programs, and encouraging greater voluntary participation of the private bar in pro bono legal assistance to low-income people in South Carolina.

(7) Consider the legal needs and access to the civil justice system of persons whose income and means are such that they *346do not qualify under existing assistance programs, and propose initiatives designed to meet these needs. IT IS SO ORDERED. /s/Jean H. Toal, C.J. FOR THE COURT