SUPREME COURT OF THE UNITED STATES

No. 03–407

JOHN F. KOWALSKI, JUDGE, 26TH JUDICIAL CIRCUIT COURT OF MICHIGAN, ET AL., PETITIONERS *v.* JOHN C. TESMER ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[December 13, 2004]

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

This case involves a constitutional challenge to Michigan's procedure for appointing appellate counsel for indigent defendants who plead guilty. The only challengers before us are two attorneys who seek to invoke the rights of hypothetical indigents to challenge the procedure. We hold that the attorneys lack standing and therefore do not reach the question of the procedure's constitutionality.

In 1994, Michigan amended its Constitution to provide that "an appeal by an accused who pleads guilty or nolo contendere shall be by leave of the court" and not as of right. Mich. Const., Art. I, §20. Following this amendment, several Michigan state judges began to deny appointed appellate counsel to indigents who pleaded guilty, and the Michigan Legislature subsequently codified this practice.[1] See Mich. Comp. Laws Ann. §770.3a (West

[1]The statute limits appellate counsel for defendants who "plea[d] guilty, guilty but mentally ill, or nolo contendere." Mich. Comp. Laws Ann. §770.3a(1) (West 2000). For simplicity, we shall refer only to defendants who plead guilty, although our analysis applies to all three situations.

2000). Under the statute, which was scheduled to go into effect on April 1, 2000, appointment of appellate counsel for indigents who plead guilty is prohibited, with certain mandatory and permissive exceptions. *Ibid*.

A challenge to the Michigan practice was filed in the United States District Court for the Eastern District of Michigan. The named plaintiffs included the two attorney respondents and three indigents who were denied appellate counsel after pleading guilty. Pursuant to Rev. Stat. §1979, 42 U. S. C. §1983, they alleged that the Michigan practice and statute denied indigents their federal constitutional rights to due process and equal protection. They sought declaratory and injunctive relief against the practice and the statute.

A day before the statute was to take effect, the District Court issued an order holding the practice and statute unconstitutional. *Tesmer* v. *Granholm*, 114 F. Supp. 2d 603 (2000). It ultimately issued an injunction that bound all Michigan state judges, requiring them not to deny appellate counsel to any indigent who pleaded guilty. 114 F. Supp. 2d 622 (2000). A panel of the Court of Appeals for the Sixth Circuit reversed. *Tesmer* v. *Granholm,* 295 F. 3d 536 (2002). The panel held that *Younger* v. *Harris*, 401 U. S. 37 (1971), abstention barred the suit by the indigents but that the attorneys had third-party standing to assert the rights of indigents. It then held that the statute was constitutional. The Court of Appeals granted rehearing en banc and reversed. *Tesmer* v. *Granholm*, 333 F. 3d 683 (2003). The en banc majority agreed with the panel on standing but found that the statute was unconstitutional. Separate dissents were filed, challenging the application of third-party standing and the holding that the statute was unconstitutional. We granted certiorari. 540 U. S. 1148 (2004).

The doctrine of standing asks whether a litigant is entitled to have a federal court resolve his grievance. This

inquiry involves "both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise." *Warth* v. *Seldin,* 422 U. S. 490, 498 (1975). In this case, we do not focus on the constitutional minimum of standing, which flows from Article III's case-or-controversy requirement. See *Lujan* v. *Defenders of Wildlife,* 504 U. S. 555, 560 (1992). Instead, we shall assume the attorneys have satisfied Article III and address the alternative threshold question whether they have standing to raise the rights of others. See *Ruhrgas AG* v. *Marathon Oil Co.,* 526 U. S. 574, 585 (1999).[2]

We have adhered to the rule that a party "generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties." *Warth* v. *Seldin, supra*, at 499. This rule assumes that the party with the right has the appropriate incentive to challenge (or not challenge) governmental action and to do so with the necessary zeal and appropriate presentation. See 422 U. S., at 500. It represents a "healthy concern that if the claim is brought by someone other than one at whom the constitutional protection is aimed," *Secretary of State of Md.* v. *Joseph H. Munson Co.,* 467 U. S. 947, 955, n. 5 (1984), the courts might be "called upon to decide abstract questions of wide public significance even though other governmental institutions may be

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[2]To satisfy Article III, a party must demonstrate an "injury in fact"; a causal connection between the injury and the conduct of which the party complains; and that it is "likely" a favorable decision will provide redress. *Lujan* v. *Defenders of Wildlife,* 504 U. S. 555, 560–561 (1992) (internal quotation marks omitted). In this case, the attorneys alleged "injury in fact" flows from their contention that the Michigan system "has reduced the number of cases in which they could be appointed and paid as assigned appellate counsel." App. 16a, ¶35 (Complaint). This harm, they allege, would be remedied by declaratory and injunctive relief aimed at the system. Again, we assume, without deciding, that these allegations are sufficient. See *Ruhrgas AG* v. *Marathon Oil Co.,* 526 U. S. 574, 585 (1999).

more competent to address the questions and even though judicial intervention may be unnecessary to protect individual rights," *Warth* v. *Seldin*, *supra*, at 500.

We have not treated this rule as absolute, however, recognizing that there may be circumstances where it is necessary to grant a third party standing to assert the rights of another. But we have limited this exception by requiring that a party seeking third-party standing make two additional showings. First, we have asked whether the party asserting the right has a "close" relationship with the person who possesses the right. *Powers* v. *Ohio,* 499 U. S. 400, 411 (1991). Second, we have considered whether there is a "hindrance" to the possessor's ability to protect his own interests. *Ibid*.

We have been quite forgiving with these criteria in certain circumstances. "Within the context of the First Amendment," for example, "the Court has enunciated other concerns that justify a lessening of prudential limitations on standing." *Secretary of State of Md.* v. *Joseph H. Munson Co., supra*, at 956. And "[i]n several cases, this Court has allowed standing to litigate the rights of third parties when enforcement of the challenged restriction *against the litigant* would result indirectly in the violation of third parties' rights." *Warth* v. *Seldin, supra*, at 510 (emphasis added) (citing *Doe* v. *Bolton*, 410 U. S. 179 (1973); *Griswold* v. *Connecticut*, 381 U. S. 479 (1965); *Barrows* v. *Jackson*, 346 U. S. 249 (1953)); see *Craig* v. *Boren*, 429 U. S. 190 (1976). Beyond these examples—none of which is implicated here—we have not looked favorably upon third-party standing. See, *e.g.*, *Conn* v. *Gabbert*, 526 U. S. 286, 292–293 (1999) (rejecting an attorney's attempt to adjudicate the rights of a client). With this in mind, we turn to apply our "close relationship" and "hindrance" criteria to the facts before us.

The attorneys in this case invoke the attorney-client relationship to demonstrate the requisite closeness. Spe-

cifically, they rely on a future attorney-client relationship with as yet unascertained Michigan criminal defendants "who will request, but be denied, the appointment of appellate counsel, based on the operation" of the statute. App. 17a, ¶37 (Complaint). In two cases, we have recognized an attorney-client relationship as sufficient to confer third-party standing. See *Caplin & Drysdale, Chartered* v. *United States,* 491 U. S. 617 (1989); *Department of Labor* v. *Triplett,* 494 U. S. 715 (1990). In *Caplin & Drysdale, Chartered* v. *United States, supra*, we granted a law firm third-party standing to challenge a drug forfeiture statute by invoking the rights of an existing client. *Id.*, at 624, n. 3. This *existing* attorney-client relationship is, of course, quite distinct from the *hypothetical* attorney-client relationship posited here.

In *Department of Labor* v. *Triplett, supra*, we dealt with the Black Lung Benefits Act of 1972, which prohibited attorneys from accepting fees for representing claimants, unless such fees were approved by the appropriate agency or court. 30 U. S. C. §932(a) (1982 ed., Supp. V). An attorney, George Triplett, violated the Act and its implementing regulations by agreeing to represent claimants for 25% of any award obtained and then collecting those fees without the required approval. The state bar disciplined Triplett, and we allowed Triplett third-party standing to invoke the due process rights of the claimants to challenge the fee restriction that resulted in his punishment. 494 U. S., at 720–721. *Triplett* is different from this case on two levels. First, *Triplett* falls within that class of cases where we have "allowed standing to litigate the rights of third parties when enforcement of the challenged restriction *against the litigant* would result indirectly in the violation of third parties' rights." *Warth* v. *Seldin*, *supra*, at 510 (emphasis added). Second, and similar to *Caplin & Drysdale*, *Triplett* involved the representation of known claimants. The attorneys before us do

not have a "close relationship" with their alleged "clients"; indeed, they have no relationship at all.

We next consider whether the attorneys have demonstrated that there is a "hindrance" to the indigents' advancing their own constitutional rights against the Michigan scheme. *Powers* v. *Ohio, supra*, at 411. It is uncontested that an indigent denied appellate counsel has open avenues to argue that denial deprives him of his constitutional rights. He may seek leave to challenge that denial in the Michigan Court of Appeals and, if denied, seek leave in the Michigan Supreme Court. See Mich. Comp. Laws Ann. §770.3 (West Supp. 2004). He then may seek a writ of certiorari in this Court. See 28 U. S. C. §1257(a). Beyond that, there exists both state and federal collateral review. See Mich. Rule Crim. Proc. 6.500 (2004); 28 U. S. C. §2254.

The attorneys argue that, without counsel, these avenues are effectively foreclosed to indigents. They claim that unsophisticated, *pro se* criminal defendants could not satisfy the necessary procedural requirements, and, if they did, they would be unable to coherently advance the substance of their constitutional claim.

That hypothesis, however, was disproved in the Michigan courts, see, *e.g., People* v. *Jackson*, 463 Mich. 949, 620 N. W. 2d 528 (2001) (*pro se* defendant sought leave to appeal denial of appointment of appellate counsel to the Michigan Court of Appeals and the Michigan Supreme Court); *People* v. *Wilkins*, 463 Mich. 949, 620 N. W. 2d 528 (2001) (same), and this Court, see Pet. for Cert. in *Halbert* v. *Michigan*, O. T. 2004, No. 03–10198 (pending request for writ of certiorari by a *pro se* defendant challenging the denial of appellate counsel). While we agree that an attorney would be valuable to a criminal defendant challenging the constitutionality of the scheme, we do not think that the lack of an attorney here is the type of hindrance necessary to allow another to assert the indigent defen-

dants' rights. See *Powers* v. *Ohio, supra*, at 411.

We also are unpersuaded by the attorneys' "hindrance" argument on a more fundamental level. If an attorney is all that the indigents need to perfect their challenge in state court and beyond, one wonders why the attorneys asserting this §1983 action did not attend state court and assist them. We inquired into this question at oral argument but did not receive a satisfactory answer. See Tr. of Oral Arg. 28–29, 35–40. It is a fair inference that the attorneys and the three indigent plaintiffs that filed this §1983 action did not want to allow the state process to take its course. Rather, they wanted a federal court to short-circuit the State's adjudication of this constitutional question. That is precisely what they got.

"[F]ederal and state courts are complementary systems for administering justice in our Nation. Cooperation and comity, not competition and conflict, are essential to the federal design." *Ruhrgas AG* v. *Marathon Oil Co.*, 526 U. S., at 586. The doctrine of *Younger* v. *Harris*, 401 U. S. 37 (1971), reinforces our federal scheme by preventing a state criminal defendant from asserting ancillary challenges to ongoing state criminal procedures in federal court. *Id.*, at 54–55.

In this case, the three indigent criminal defendants who were originally plaintiffs in this §1983 action were appropriately dismissed under *Younger*. As the Court of Appeals unanimously recognized, they had ongoing state criminal proceedings and ample avenues to raise their constitutional challenge in those proceedings.[3] 333 F. 3d, at 690–691. There also was no extraordinary circum-

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[3]The Court of Appeals suggested, however, that adverse Michigan precedent on the merits of the constitutional claim made any resort to the state courts futile and thus justified the attorneys' sally into federal court. 333 F. 3d, at 695. But forum-shopping of this kind is not a basis for third-party standing. See, *e.g.*, *Caplin & Drysdale, Chartered* v. *United States,* 491 U. S. 617, 624, n. 3 (1989).

stance requiring federal intervention. *Ibid.* An unwillingness to allow the *Younger* principle to be thus circumvented is an additional reason to deny the attorneys third-party standing.[4]

In sum, we hold that the attorneys do not have third-party standing to assert the rights of Michigan indigent defendants denied appellate counsel. We agree with the dissenting opinion in the Court of Appeals that "it would be a short step from the . . . grant of third-party standing in this case to a holding that lawyers generally have third-party standing to bring in court the claims of future unascertained clients."[5] 333 F. 3d, at 709 (Rogers, J., concurring in part and dissenting in part).

The judgment of the Court of Appeals is therefore reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

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[4]The mischief that resulted from allowing the attorneys to circumvent *Younger* is telling. By the time the Michigan Supreme Court had a chance to rule on even the prestatutory practice, see *People* v. *Bulger*, 462 Mich. 495, 614 N. W. 2d 103 (July 18, 2000) (holding the practice constitutional), the Federal District Court had ruled the prestatutory practice *and* the impending statute itself unconstitutional. *Tesmer* v. *Granholm*, 114 F. Supp. 2d 603, 622 (ED Mich., Mar. 31, 2000). It also had issued an injunction against all Michigan judges, instructing them to appoint counsel (regardless of what their own Supreme Court said). 114 F. Supp. 2d 622 (ED Mich., June 30, 2000). Thus, the Federal District Court effectively trumped the Michigan Supreme Court's ruling; caused unnecessary conflict between the federal and state courts; and caused confusion among Michigan judges attempting to implement these conflicting commands.

[5]As Judge Rogers explained, the lawyer would have to make a credible claim that a challenged regulation would affect his income to satisfy Article III; after that, however, the possibilities would be endless. 333 F. 3d, at 709. A medical malpractice attorney could assert an abstract, generalized challenge to tort reform statutes by asserting the rights of some hypothetical malpractice victim (or victims) who might sue. *Id.*, at 710. An attorney specializing in Social Security cases could challenge implementation of a new regulation by asserting the rights of some hypothetical claimant (or claimants). *Ibid.* And so on.