

IN THE CIRCUIT COURT OF THE 16TH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR MONROE COUNTY

ADMINISTRATIVE ORDER 2.071/14-1

IN RE:

Doc# 1991101 07/22/2014 3:26PM
Filed & Recorded in Official Records of
MONROE COUNTY AMY HEAVILIN

COURT-APPOINTED ATTORNEYS
AND COMPENSATION RATES FOR
DUE PROCESS SERVICES

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BK# 2695 Pg# 618

_____ :

WHEREAS, pursuant to Florida Statutes 27.40(2), it is necessary to provide for the orderly appointment of court-appointed counsel in certain types of cases in the Sixteenth Judicial Circuit when the Office of the Public Defender and the Office of Regional Counsel are unable to provide representation due to conflict of interest or otherwise; and

WHEREAS, Section 27.40, Florida Statutes, was amended by the 2014 session of the Florida Legislature eliminating the limited registry for private court-appointed counsel willing to accept a flat fee; and

WHEREAS, Florida Statutes 27.425, the Chief Judge shall recommend compensation rates for state funded due process service providers in cases in which the court has appointed private counsel or declared a person indigent for costs; and

WHEREAS, there is a desire on the part of the judiciary of the Sixteenth Circuit to create a uniform order outlining the guidelines for court-appointed counsel, to include the necessary qualifications for appointment and compensation rates for attorney services and due-process services;

NOW, THEREFORE, IT IS ORDERED as follows:

CONFLICT/COURT-APPOINTED ATTORNEY REGISTRY

- (1) The Registry will be utilized only when representation cannot be legally or ethically provided by the Office of the Public Defender and the Office of Regional Counsel.
- (2) The Chief Judge shall compile a general registry of attorneys in private practice, designated by a

category of cases by category of cases. The Court shall appoint attorneys on the general registry in rotating order, in the order in which names appear on the registry, unless the Court makes a finding of good cause on the record for appointing an attorney out of order.

- (3) Any attorney seeking to be included on the general registry must submit an application to Court Administration.
- (4) The trial judge, in appointing a special public defender, or court-appointed counsel, shall utilize a standard approved order.
- (5) Only one special public defender may represent a defendant at any given time (this shall not be deemed to limit successive appointments, if warranted), except for a capital murder case.
- (6) When a special public defender has been appointed upon the re-arrest of a defendant after an alias *capias*, or upon the filing of a probation violation affidavit, or upon the filing of new charges while there is another pending case, or upon transfer from the Juvenile Division to the Criminal Division, the same special public defender will be appointed, but only if the attorney is on the registry and is appropriately qualified, and only if the Public Defender and the Office of Regional Counsel again certify a conflict.

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QUALIFICATIONS

- (1) To be considered for placement on the court registry, an attorney must first be a member of the Florida Bar in good standing and submit a completed application to Court Administration.
- (2) To be included on the Court's general registry, attorneys shall certify that they:
 - a. Meet any minimum requirements established in general law for court appointment.
 - b. Are available to represent indigent defendants in cases requiring court appointment of conflict private counsel and are willing to abide by the terms of the contract for services with the

Justice Administrative Commission, herein after referred to as "JAC" and this Administrative Order.

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- (3) In addition to the above, for any attorney to be considered by the Chief Judge for placement on specified registries in the 16th Judicial Circuit, the attorney must also certify that they meet the following requirements:
- a. Capital Cases
 - i. The attorney must meet the minimum requirements for lead counsel set forth in Rule 3.112(f), Florida Rules of Criminal Procedure, or
 - ii. The attorney must meet the requirements for co-counsel set forth in Rule 3.112(g), Florida Rules of Criminal Procedure.
 - b. Criminal Cases—Felony Division
 - i. In second and third degree felony cases, the attorney shall have been a member of the Florida Bar for at least two years and an experienced and active trial practitioner with no fewer than three state or federal jury or non-jury trials, at least two of which were criminal cases;
 - ii. In first degree and life felony cases, the attorney shall have been a member of the Florida Bar for at least five years and an experienced and active trial practitioner with no fewer than five state or federal jury trials, at least three of which are criminal cases.
 - c. Criminal Cases—Misdemeanor Division
 - i. The attorney shall be a member of the Florida Bar.
 - d. Criminal Cases—Appellate Division
 - i. The attorney must be in compliance with the Florida Bar approved continuing legal education requirements, with a minimum of ten hours within a reporting cycle devoted to appellate law;
 - ii. The attorney must meet the experience requirements as enumerated in criminal cases

above for the category of cases in which the appeal has been filed.

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e. Juvenile Delinquency Cases

- i. The attorney shall be a member of the Florida Bar.

f. Juvenile Dependency Cases

- i. For dependency cases (shelter to post-disposition, appeals of dependency cases) the attorney shall have observed a shelter hearing, a dependency hearing and a termination of parental rights hearing and will have completed at least six hours of approved continuing legal education, within the Florida Bar reporting cycle, in the area of dependency law;
- ii. For Termination of Parental Rights cases and appeals of Termination of Parental Rights, the attorney shall have at least two adjudicatory hearings on petitions of dependency and one year of dependency experience.

g. Guardianship/Jimmy Ryce Cases

- i. In standard guardianship cases and appeals to standard guardianship cases, the attorney shall be familiar with the practice and procedure of guardianship proceedings; have experience in the use of expert witnesses and evidence, including but not limited to psychiatric and forensic evidence; be an experienced trial practitioner who has represented clients in no fewer than two guardianship proceedings; and will have completed at least six hours of approved continuing legal education, within the Florida Bar reporting cycle, in the area of guardianship law;
- ii. In emergency guardianship cases, the attorney must certify familiarity with and knowledge of the following proceedings:
 1. Chapter 415, Florida Statutes;
 2. Chapter 39, Florida Statutes (Baker Act);
 3. Chapter 397, Florida Statutes (Marchman Act);
 4. Chapter 392, Florida Statutes, Victims of Tuberculosis;

5. Chapter 744 and 765, Florida Statutes and Rule 5.900, Florida Rules of Probate, Health Care Directives; and
6. Chapter 384, Florida Statutes, Victims of Sexually Transmitted Diseases.

iii. In Jimmy Ryce cases, the attorney shall have been a member of the Florida Bar for at least five years and an experienced and active trial practitioner with no fewer than five state or federal jury trials, at least three of which are criminal cases.

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ATTORNEY'S FEES

- (1) Attorneys shall be compensated in accordance with the schedule of fees prescribed by the Florida Statutes and the General Appropriations Act in effect at the time of the Attorney's date of appointment.
- (2) For attorneys on the general registry seeking excess compensation for extraordinary and unusual effort pursuant to section 27.5304(12), Florida Statutes, the Chief Judge upon receipt of the motion, shall enter an order setting the date and time of the hearing.

DUE PROCESS COSTS

- (1) Pursuant to Florida Statutes section 27.425(1) maximum due process compensation rates are set by the General Appropriations Act. The current rates for the 16th Judicial Circuit are as follows:
 - a. Interpreter and Translation Services
 - i. Appearances/translations (non-certified provider)
 1. Spanish language--\$45.00 for one hour or less. Each additional $\frac{1}{4}$ hour, \$11.25;
 2. Languages other than Spanish--\$50.00 for one hour or less. Each additional $\frac{1}{4}$ hour--\$12.50.
 3. Sign Language--\$65.00 for one hour or less. Each additional $\frac{1}{4}$ hour--\$16.25.
 4. No additional compensation is anticipated for services rendered past 5:00 PM, Saturdays, Sundays or legal holidays.

- ii. Appearances/translations (Federal or Florida certified provider)
 - 1. Spanish language--\$55.00 for one hour or less. Each additional $\frac{1}{4}$ hour--\$13.75;
 - 2. Languages other than Spanish--\$60.00 for one hour or less. Each additional $\frac{1}{4}$ hour--\$15.00.
 - 3. No additional compensation is anticipated for services rendered past 5:00 PM, Saturdays, Sundays or legal holidays.

- iii. Nothing in this order shall preclude the Trial Court Administrator from negotiating at the lowest possible fee with and retaining for the Courts in the 16th Judicial Circuit, on a case-by-case basis, interpreters and translators for languages not spoken by contracted interpreters or translators or in instances where no existing contract provider is available.

b. Court Reporting Services

i. Stenographer Appearances

- 1. One hour or less--\$50.00;
- 2. Each additional $\frac{1}{4}$ hour--\$12.50;
- 3. The above fees are intended to compensate the reporters on an hourly basis and not on a per case basis.

ii. Transcription from stenographic notes of court hearings or depositions

- 1. Original and one--\$4.75 per page (for 24 hour or less delivery--\$5.25 per page);
- 2. Each additional copy--\$1.50 per page.
- 3. Charges authorized for 24 hour or less delivery shall be incurred only upon written approval of the presiding judge in the case.

iii. Transcription from electronic formats (CD, DVD, audio tape, video) of court hearings

- 1. Search of format for court hearing--\$10.00 per hour;
- 2. Original and one--\$4.25 per page (for 24-hour or less delivery--\$4.75 per page);
- 3. Each additional copy--\$1.50;

4. Charges authorized for 24 hour of less delivery shall be incurred only upon written approval of the presiding judge in the case.
- iv. Transcription from electronic formats of depositions
 1. Original and one--\$4.00 per page;
 2. The transcriptionist shall provide no additional copies; the ordering party shall provide copies to the opposing party.
- v. Copies of Electronically recorded media
 1. Copies of court proceeding recorded by digital media (DVD, CD, tape)--\$25.00
- vi. Certificate of Non-Appearance
 1. A fee of \$100.00 may be charged by court reporters as an upper limit for the production of a Certificate of Non-Appearance in proceedings required to be reported and paid for by public authority.
- vii. Transcripts shall conform to the specifications prescribed in Rule 2.070(e), Florida Rules of Judicial Administration;
- viii. An employee court reporter or transcriptionist shall not produce a typewritten transcript of his or her notes or of an electronic record of in-court proceedings unless the court, in the case for which such transcription has been requested, enters an order or instructions in writing directing same;
- ix. Pursuant to Florida Statutes, Section 27.0061, the cost for transcribing testimony and proceedings for the purpose of taking an appeal in a criminal case shall be taxed as costs in the case. Therefore, in the event a privately-retained attorney wishes to obtain a transcript of a proceeding reported by an employee court reporter, the attorney must obtain the cost of such production directly from the Court Reporting Manager and subsequently obtain an order for costs from the trial judge. The Court Reporting Manager will schedule the work upon payment

of costs and thereafter insure with reasonable diligence the production of the transcript and provide same to the requesting attorney. Payment shall be made to the State of Florida and shall conform to the fee schedule as presented herein;

- x. Employee court reporters shall not produce transcripts for outside parties from electronic formats. The format (CD, DVD, tape, video, etc.) shall be duplicated and provided to the requester upon payment in accordance with this Administrative Order. The requester shall procure any necessary transcription services in accordance with his or her own agency's or office's internal procedures.

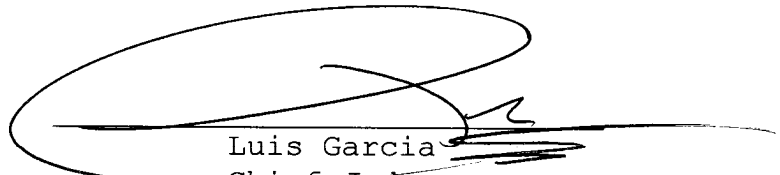
c. Expert Witnesses

- i. The court, in the exercise of its discretion, shall apply the "portal to portal" basis at the below listed rates to approve fees for travel and testimony for experts located outside of the 16th Judicial Circuit. "Portal to Portal" means from door to door. This means that an expert shall be compensated for his or her time from the time when the expert leaves his or her office or home and then returns to that place. In lieu of the "portal to portal" rule, the Court may exercise its discretion to adjust the hourly rates set forth below or utilize agreements for a per diem payment to compensate out-of-county experts;
- ii. Regarding local experts located within the 16th Judicial Circuit, the "portal-to-portal" rule shall not apply as long as transportation arrangements for the subject can normally be arranged;
- iii. All out-of-county experts are required to use the most expedient means of transportation available although the Court may exercise its discretion in approving fees for an out-of-county expert who, for medical or other compelling reasons, must travel by motor vehicle rather than an airplane;

- iv. A flat fee of \$450.00 shall be paid to all medical doctors, including psychiatrists, for a preliminary medical or psychiatric examination and report issued after such examination;
- v. A flat fee of \$350.00 shall be paid to all experts for competency to proceed and report issued after such examination;
- vi. Conflict and Court-Appointed counsel may apply to the court for additional payment for a further in-depth examination. If the Court itself requires a further in-depth examination, the court or court staff, as directed by the court, may negotiate with providers for additional payment;
- vii. Other experts (i.e. fingerprints, blood, ballistics, jury selection, DNA, etc.) shall be compensated on a case-by-case basis for the court in accordance with procedures established by the Office of the State Courts Administrator and for conflict and court-appointed counsel in accordance with procedures established by law and the Justice Administrative Commission.

Administrative Order 2.071/13-1, *Court Appointed Attorneys and Compensation Rates for Due Process Services* is amended in its entirety and replaced upon execution below.

DONE AND ORDERED at Plantation Key, Monroe County, Florida, this the 16th day of July, 2014, *nunc pro tunc* July 1, 2014.


Luis Garcia
Chief Judge