

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER, MARTIN, OKEECHOBEE, AND
ST. LUCIE COUNTIES, STATE OF FLORIDA**

ADMINISTRATIVE ORDER 00 -04

IN RE: Appointment Procedures and Qualifications of Counsel in Capital Cases

WHEREAS, the Florida Supreme Court has adopted Rule 3.112, Florida Rules of Criminal Procedure, mandating minimum standards for appointed counsel in death penalty cases,

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

I. PROCEDURES

- A. There shall be a Standing Conflict Committee pursuant to Section 925.037(3), Florida Statute (1999). This committee shall consist of the Chief Judge or his/her designee; a designee of the Board of County Commissioners of Indian River, Martin, Okeechobee and St. Lucie Counties; and the Public Defender or his/her designee. The Committee is encouraged to seek input from experienced members of the criminal defense bar. The Committee shall be responsible for reviewing applications for the capital case appointment list.
- B. The definitions of a capital case, and qualifications of lead trial counsel, trial co-counsel, and appellate counsel shall be governed by Rule 3.112, Florida Rules of Criminal Procedure (1999).
- C. Attorneys determined by the Conflict Committee to meet the qualifications set forth within Rule 3.112, Florida Rules of Criminal Procedure (1999) as lead counsel, co-counsel, and appellate counsel, and who maintain Professional Liability Insurance in an amount not less than \$100,000/\$300,000 shall be placed on a court-appointed list. The Court Administrator shall maintain separate lists for lead counsel, co-counsel, and appellate counsel. When the need arises for appointment of conflict counsel on a capital case, assignments will generally be made in the sequence that the names appear on the roster of eligible attorneys. Departures from the practice of strict rotation of assignments may be made when, in the opinion of the Trial Judge, such departure will protect the best interests of the Defendant and be in the interest of justice. Except upon special motion or order, no lawyer shall be appointed to more than two pending capital trial cases either as lead counsel, co-counsel, or appellate counsel.
- D. Members of the bar have no right to appointment as conflict attorneys in capital cases and those appointed are expected to provide representation commensurate with the seriousness of the charge. When in the opinion of the trial judge a capital case roster attorney has failed to provide representation to a defendant commensurate with the seriousness of the offense, the trial judge may remove the attorney from the roster as used in the judge's division and shall communicate such removal to the attorney, the other judges assigned to criminal divisions within the circuit, and the Court Administrator.

E. Except as provided for in Rule 3.211, Florida Rules of Criminal Procedure (1999), counsel shall be compensated for actual time and services performed. The hourly compensation for lead counsel shall be \$100.00 per hour. The hourly compensation for appellate counsel shall be \$100.00 per hour. The hourly compensation for co-counsel shall be \$75.00 per hour. Except in extraordinary circumstances, interim billing shall not be permitted other than for approved costs incurred during trial representation. However, interim billing will be allowed in capital appeal cases on a quarterly basis.

In the event the State waives the death penalty or reduces the charge from first degree murder, thereafter, lead counsel shall be compensated at the rate of \$75.00 per hour.

This order shall become effective upon execution.

26 **DONE AND ORDERED** in quadruplicate at Vero Beach, Indian River County, Florida, this day of July 2000.



PAUL B. KANAREK
Chief Judge