

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

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v.

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Case No. CC-00-0000

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JOE CLIENT.

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MOTION FOR ADEQUATE COMPENSATION

Joe Client respectfully requests this Court to approve compensation to defense counsel at an hourly rate of \$125 for in-court and out-of-court time. In support of this motion, Mr. Client submits the following:

1. Mr. Client is before this Court awaiting trial for capital murder and the State is seeking the death penalty. Because Mr. Client is indigent, this Court appointed undersigned counsel to represent him.

2. In order to provide the high quality legal representation constitutionally required in this capital case, undersigned counsel requires adequate compensation at an hourly rate commensurate with the prevailing rates for similar services, with no distinction between rates for services performed in and out of court. Guideline 9.1, American Bar Association Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, 31 Hofstra L. Rev. 903, 981 (2003).

3. Alabama law recognizes that counsel appointed in a capital case is entitled to additional compensation. See Ala. Code § 15-12-21(d)(1) (“In cases where the original charge is a capital offense . . . there shall be no limit on the total fee.”). The Legislature’s elimination of the cap on compensation in capital trial cases accords with ABA Guideline 9.1, which renders improper caps on compensation as well as fixed fees that distinguish between rates for services performed in and out of court.

4. Attorneys appointed to represent defendants in capital trials in federal courts throughout Alabama are compensated at an hourly rate of \$125 for both in-court and out-of-court work. 18 U.S.C. § 3599(g)(1). Accordingly, this Court should approve counsel’s fee of \$125 hourly for in-court and out-of-court work on Mr. Client’s defense.

5. Because this is a capital case, this Court must apply special considerations to ensure that it is fair. “The fundamental respect for humanity” underlying the Eighth Amendment’s prohibition against cruel and unusual punishment gives rise to a special need

for reliability in determining whether the death penalty is appropriate. Johnson v. Mississippi, 486 U.S. 578, 584 (1988); see also Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989) (death penalty is “special circumstance” that justifies expansion of constitutional rights).

6. If adequate compensation is not approved, Mr. Client will be deprived of due process, equal protection, effective assistance of counsel, a fair trial and reliable sentencing, and his right to present a defense as protected by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, Mr. Client respectfully requests that this Court enter an order granting the motion for adequate compensation.

Respectfully submitted,

/s/ Linda Lawyer
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[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/11/17]