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AT THE TIME AND DATE NOTED
PAUL F. HARTSFIELD
CLERK OF CIRCUIT COURT

IN THE SECOND JUDICIAL
CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER NO. 78-52

IN RE: Fees, Costs, and Expenses of Special Assistant Public Defenders

PREAMBLE

Chapters 27.53 and 925.035(7), Florida Statutes, (Ch.77-344) provide for the appointment of Special Assistant Public Defenders to represent insolvent defendants in criminal cases and mandates that they be paid a fee and reimbursed for costs and expenses reasonably incurred, the amounts thereof to be determined by the trial judge in accordance with hourly rates established by the Chief Judge within statutory limitations.

COMPENSATION

1. Special Assistant Public Defenders appointed by the Circuit and County Courts of this Circuit as counsel to insolvent defendants in criminal and juvenile cases shall be compensated at the rate of thirty-five dollars per hour for time expended in court and twenty-five dollars per hour for time reasonably expended out of court, and they shall be reimbursed for costs and expenses reasonably incurred.

2. Counsel time shall be computed in hours and tenths of hours and shall be detailed as follows:

A. In Court, showing dates services were performed:

(1) Arraignment and/or plea;
(2) Motions and requests;
(3) Bail hearings;
(4) Sentencing hearings;
(5) Trial;
(6) Appellate Court;
(7) Other (as specified).

B. Out of Court:

(1) Interviews and conferences;
(2) Obtaining and reviewing records;
(3) Legal research and brief writing;
(4) Investigative and other work (as specified);
(5) Travel time (subject to certain limitations).

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3. Compensation may be approved for time spent in necessary and reasonable travel, provided that travel time to or from Court or the place where service is rendered may not be claimed.

4. Compensation (exclusive of allowable expenses) may not exceed the following limitations per case per defendant as specified in Chapter 925.035(7), Florida Statutes (77-344):

A. For misdemeanors and juveniles represented at the trial level ----------$500.

B. For non-capital, non-life felonies represented at the trial level ----------$1,500.

C. For life felonies represented at the trial level ----------$2,000.

D. For capital cases represented at the trial level ----------$2,500.

E. For representation on appeal ---------$1,000.

5. Other co-counsel or associate attorneys may not be compensated, but an appointed counsel may claim compensation for services furnished by his partner or associate, within the maximum compensation allowed.

6. An appointment of counsel shall be terminated when the Court subsequently finds that a person has obtained or is financially able to obtain counsel.

7. No appointed attorney shall accept a payment from or on behalf of the person represented without authorization of the trial judge. If such payment is authorized, it shall be deducted from the counsel's fee.

8. If an attorney is substituted for an attorney previously appointed for a defendant, the total compensation paid both attorneys may not exceed the limitation for one defendant.

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EXPENSES AND REIMBURSABLE COSTS

9. General:

A. Out-of-pocket expenses reasonably incurred may be claimed on the voucher and must be itemized and reasonably documented.

B. Expenses of an unusual nature or for special services may be allowed with prior approval of the Court.

10. Travel:

A. Transportation. Travel by privately owned automobile should be claimed at the rate currently prescribed for officers and employees of the judiciary, plus parking fees and tolls paid. Transportation other than by privately owned automobile is to be claimed on an actual expense basis.

B. Subsistence. Counsel's expenses for meals and lodging incurred in the representation of the defendant constitute reimbursable "out-of-pocket" expenses. In determining whether actual expenses incurred are "reasonable", counsel shall be guided by prevailing limitations placed upon subsistence expenses applicable to officers and employees of the judiciary under existing travel regulations of the State of Florida.

11. Other Reimbursable Expenses:

A. Counsel may claim reimbursement for items of expenses such as telephone toll calls, telegrams, copying (except printing) and photographs which

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are necessary and reasonable in connection with the representation of a defendant.

B. In travel status, reasonable stenographic service may be authorized with prior approval by the Court.

12. Payment for Investigative and Other Special Services:

A. Compensation for such service, plus expenses reasonably incurred, may be allowed with prior authorization by the Court.

13. Non-reimbursable Items of Expenses:

A. General office overhead of counsel.

B. The cost of items of a personal nature purchased for or on behalf of the person represented.

C. Filing fees or other charges waived by law.

D. Payments to witnesses or for other services which represent costs normally paid by the State or County.

PROCEDURE

14. Within a reasonable time after conclusion of the representation, counsel shall file his motion for the allowance of compensation and costs. The motion shall be detailed and supported as provided herein and a copy thereof and notice of hearing thereon shall be served upon all interested parties including the attorney to the Board of County Commissioners of the county affected in accordance with *Murphy v. Escambia County, 358 So.2d 903 (Fla. 1st D.C.A. 1978)*.

EFFECTIVE DATE AND SCOPE

This order shall apply to all Courts within the Circuit and shall take effect on October 1, 1978, simultaneously with Chapter 77-344 and shall apply to all Special Assistant Public Defenders appointed on and subsequent to that date.

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RECORDING BY CLERKS

This order shall be recorded by each of the Clerks of the six counties in this Circuit in the Minutes of the Court.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 2nd day of November, 1978, nunc pro tunc October 1, 1978.

Ben C. Willis

BEN C. WILLIS, CHIEF JUDGE
SECOND JUDICIAL CIRCUIT

Distribution:

All Circuit Judges, Second Judicial Circuit
All County Court Judges, Second Judicial Circuit
All Clerks of Court, Second Judicial Circuit
All County Attorneys, Second Judicial Circuit
President, each Bar Association in Circuit
Dozier Allen
Public Defender, Second Judicial Circuit
State Attorney, Second Judicial Circuit

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INSTRUCTIONS TO COURT-APPOINTED COUNSEL

YOUR APPOINTMENT

The Court maintains a list of attorneys who have indicated a desire to be appointed as defense counsel for indigents charged with a criminal offense. As nearly as practical, a rotation system is used; however, consideration is also given to the complexity of the charge and the experience of counsel in making the appointment.

COSTS

In the interest of reducing the expense to the taxpayers of the Second Judicial Circuit for the defense of indigents it is expected that as nearly as practicable your representation shall be governed by the following:

1. Give notice to and/or schedule depositions at the same time as that set by the Public Defender representing a co-defendant.

2. Plan schedule far enough in advance of trial to preclude the necessity of expediting the preparation of transcripts. Generally, two weeks are required to insure transcript preparation. All depositions shall be taken by an official court reporter unless otherwise authorized by the presiding judge. If you request expedited transcripts or use a court reporter other than an official without prior approval of the court, you will have to pay for the reporting and the transcript.

3. Obtain Court approval before engaging the service of any expert witness.

APPEALS

Your responsibility to your client does not terminate with a verdict of guilty or acceptance of a guilty plea by the Court. In each instance an appellate review may be accomplished. You should discuss with your client the prospect of such a review. If he waives his right to appeal, be sure he does so intelligently after being fully informed of all relevant matters; and, to preserve the record, have him do so in writing. Thereafter, there can be no doubt about the absence of an appeal. See Moore vs. State 298 So.2d 561 (1st DCA).

The record on appeal will require the preparation of a transcript of the trial and/or other court proceedings. In most cases, you will represent a co-defendant, who may also prosecute an appeal. To avoid the preparation and cost of two original transcripts of the same proceeding, coordinate your directions to the Clerk and Motion for Transcript with co-defendant's counsel.

FEES

To insure the payment to you of a fee it is necessary that you complete your service and, in the event an appeal is to be prosecuted, by your accomplishing the following:

1. Motion for New Trial - File and have determined by the Court.
2. Notice of Appeal - File.
3. Assignments of Error - File.
4. Directions to the Clerk - File.
5. Motion for Transcript - File.
6. Affidavit of Insolvency. If not previously accomplished, have client execute an appropriate affidavit of insolvency for appellate purposes. The form may be obtained from the Clerk's office.
7. Be certain that an order is entered appointing the Public Defender, Second Judicial Circuit, for purpose of appeal.
8. Forward an information copy of each of the above seven filings to the Public Defender, Second Judicial Circuit.

Upon motion to the Court showing that you have completed your service, including the foregoing, an appropriate fee will be awarded. Your motion should certify the services rendered, time spent, costs incurred and any other relevant matter to reflect a basis for a fee allowance. Affidavits of other experienced attorneys regarding reasonable fees should also be filed in support of your motion. FORMS FOR THIS PURPOSE MAY BE OBTAINED FROM THE OFFICE OF THE CLERK.

_____
JUDGE

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IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR _____ COUNTY

CRIMINAL DIVISION

CASE NO._____

THE STATE OF FLORIDA,
Plaintiff
Vs.
_____,
Defendant

MOTION, AFFIDAVIT AND ORDER FOR ATTORNEY'S FEES FOR SPECIALLY APPOINTED ASSISTANT PUBLIC DEFENDER

Defendant's counsel, _____, having been duly appointed in this cause as a Special Assistant Public Defender moves this Court pursuant to Sections 27.53 and 925.035, Florida Statutes, to certify attorney's fees as follows:

Date	Nature of Services	Time Spent

(Attach additional sheets if necessary)

TOTAL TIME SPENT

Out-of-Court _____ hrs. @ $25.00=$_____

In-Court _____ hrs. @ $35.00=$_____

TOTAL $_____

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LEON COUNTY
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Accordingly, the undersigned hereby moves this Court to certify attorney's fees in the amount of $_____, and costs in the amount of $_____ for a total of $_____. Cost list attached.

By_____

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME the undersigned authority personally appeared _____, who after being duly sworn, deposes and says that he represents that the information contained within the foregoing Motion for Attorney's Fees is true and correct to the best of his information and belief.

_____
Notary Public, State of Florida at Large

My Commission Expires:_____

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LEON COUNTY
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ORDER CERTIFYING SPECIAL PUBLIC DEFENDER'S ATTORNEY'S FEES

THIS CAUSE came on to be heard upon the foregoing Motion and Affidavit for Attorney's Fees, and the Court being fully advised in the premises, it is

ORDERED AND ADJUDGED that _____ is entitled to attorney's fees for his/her representation of the defendant in the above captioned case as a Special Assistant Public Defender, and the Court certifies to the Board of County Commissioners of _____County that this attorney is entitled to a fee of $_____, plus $_____cost, which shall be paid to him/her by_____County, Florida, after being audited and approved according to law.

DONE AND ORDERED at _____, Florida, this _____day of _____, 19_____.

_____
CIRCUIT JUDGE

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IN THE COUNTY COURT IN AND
FOR _____ COUNTY,
FLORIDA

CRIMINAL DIVISION

CASE NO._____

THE STATE OF FLORIDA,
Plaintiff

Vs.

_____,
Defendant

MOTION, AFFIDAVIT AND ORDER FOR ATTORNEY'S FEES AND SPECIALLY APPOINTED ASSISTANT PUBLIC DEFENDER

Defendant's counsel, _____, having been duly appointed in this cause as a Special Assistant Public Defender moves this Court pursuant to Sections 27.53 and 925.035, Florida Statutes, to certify attorney's fees as follows:

Date	Nature of Services	Time Spent

(Attach additional sheets if necessary)

TOTAL TIME SPENT

Out-of-Court _____hrs. @ $25.00 = $_____

In-Court _____hrs. @ $35.00 = $_____

TOTAL $_____

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Accordingly, the undersigned hereby moves this Court to certify attorney's fees in the amount of $_____, and costs in the amount of $_____for a total of $_____. Cost list attached.

By_____

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME the undersigned authority personally appeared _____, who after being duly sworn, deposes and says that he represents that the information contained within the foregoing Motion for Attorney's Fees is true and correct to the best of his information and belief.

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Notary Public, State of Florida at Large

My Commission Expires:_____

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ORDERED AND ADJUDGED that _____ is entitled to attorney's fees for his/her representation of the defendant in the above captioned case as a Special Assistant Public Defender, and the Court certifies to the Board of County Commissioners of _____County that this attorney is entitled to a fee of $_____, plus $_____cost which shall be paid to him/her by _____County, Florida, after being audited and approved according to law.

DONE AND ORDERED at _____

Florida, this _____day of _____, 19_____.

_____
COUNTY JUDGE

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