

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

THE STATE OF FLORIDA,
Plaintiff,

CRIMINAL DIVISION
CASE NO: F95-1738-EB
JUDGE TUNIS

FILED
2018 FEB -9 PM 2:27
CLERK OF DISTRICT COURT
MIAMI-DADE COUNTY, FL
1100 BRYAN STREET, SUITE 226
MIAMI, FL 33137

FILED FOR RECORD

vs.

NOEL DOORBAL,
Defendant.

ORDER DENYING MOTION FOR REHEARING

This cause having come before the court on counsel's Motion for Rehearing following a denial of the fees of the designated attorney, this court finds as follows:

Trial counsel initially filed a Motion to Vacate Death Sentence in the trial court on February 16, 2016, following the U.S. Supreme Court opinion in *Hurst v. Florida*, 136 S. Ct. 616 (2016). The State filed a motion to strike because the motion was not appropriately served. The trial court granted the motion to strike on March 24, 2016, allowing counsel 30 days to amend the motion (certificate of service) and properly serve the motion. Counsel did not amend the motion and properly serve it. If counsel had amended the certificate of service in the motion and properly served the motion, counsel could have asked the trial judge to hold the motion in abeyance until the Florida Supreme Court determined whether *Ring v. Arizona*, 536 U.S.584 (2002), was retroactive following *Hurst*. After the Florida Supreme Court addressed the retroactivity issue in *Mosely v. State*, 209 So.3d 1248, 1283 (Fla. 2016), the trial court would have ruled on the motion and vacated the death sentence. Counsel instead filed a Petition for Writ of Habeas Corpus in the Florida Supreme Court. Counsel has received more than \$100,000 in fees.


Pursuant to §27.710(6), “[m]ore than one attorney may not be appointed and compensated at any one time under §27.711 to represent a person in postconviction capital collateral proceedings. However, an attorney appointed under this section may designate another attorney to assist him or her if the designated attorney meets the qualifications of this section.” Pursuant to §27.710(2), to “be eligible for court

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appointment as counsel in postconviction capital proceedings, an attorney must certify on an application provided by the executive director that he or she satisfies the minimum requirements for private counsel set forth in §27.704(2).” The requirements set forth in §27.704 (2) state that the attorney “must have at least 3 years' experience in the practice of criminal law; and, prior to the contract, must have participated in at least two capital trials or capital sentencing proceedings, five felony appeals, or five capital postconviction evidentiary hearings, or any combination of at least five of such proceedings.” The designated attorney stated on the record that he does not meet the qualifications set forth in §27.704(2).

WHEREFORE, it is ORDERED AND ADJUDGED that the Motion for Rehearing is DENIED.

Done and Ordered in Miami-Dade County this ^{21st} day of February, 2018.



Dava Tunis
Circuit Court Judge

Ar: Martin G. Esq.

Copies to:
Maria del Carmen Calzon, Esq.
JAC