

IN THE SUPREME COURT
STATE OF FLORIDA

Case No. SC08-1827

Lower Tribunal Case No.: 08-1

THE STATE OF FLORIDA

Appellant/Petitioner,

v.

PUBLIC DEFENDER, ELEVENTH JUDICIAL CIRCUIT OF FLORIDA,

Appellee/Respondent.

**PUBLIC DEFENDER'S UNOPPOSED MOTION TO EXPEDITE THE
APPEAL OF THE ORDER GRANTING IN PART AND DENYING IN
PART PUBLIC DEFENDER'S MOTION TO APPOINT OTHER COUNSEL
IN UNAPPOINTED NONCAPITAL FELONY CASES**

On Review From a Decision of the
Third District Court of Appeal

Bennett H. Brummer, the Public Defender for the Eleventh Judicial Circuit of Florida (“PD-11”), pursuant to Florida Rule of Appellate Procedure 9.310 and for the reasons set forth in PD-11’s Motion to Dissolve the Temporary Stay Entered By The Third District Court of Appeal, hereby respectfully requests that this Court expedite the appeal of the Order Granting in Part and Denying in Part Public Defender’s Motion to Appoint Other Counsel in Unappointed Noncapital Felony Cases that the Honorable Stanford Blake of the Eleventh Judicial Circuit entered on September 3, 2008 (the “Order”).

1. On or about September 4, 2008, the State of Florida (the “State”) filed a notice of appeal of the Order. The State filed an amended notice of appeal on September 16, 2008.

2. On September 12, 2008, the Third District Court of Appeal (“3d DCA”) entered an order expediting the appeal of the Order (the “September 12th Order”). (App. A). The September 12th Order provided that the Appellant’s initial brief should be filed no later than October 1, 2008, the Appellee’s answer brief no later than October 20, 2008, and the Appellant’s reply brief no later than October 27, 2008.

3. On September 24, 2008, the 3d DCA vacated the September 12th Order -- the same day the 3d DCA certified that the Order requires the immediate resolution by this Court because it passes upon a question of great public

importance or will have a great effect on the administration of justice. The 3d DCA's order vacating the September 12th Order is attached to the Appendix at Tab B, and the order certifying the appeal is attached to the Appendix at Tab C.

4. PD-11 files this motion in good faith because of the extraordinary conditions in its office caused by excessive caseloads, which have significantly deteriorated since Judge Blake entered the Order on September 3, 2008. The worsening conditions are summarized in PD-11's Motion to Dissolve the Temporary Stay Entered By The Third District Court of Appeal and the Affidavit of Carlos Martinez, attached thereto (which PD-11 is filing contemporaneously herewith). PD-11 incorporates by reference the motion to dissolve the stay and the Martinez Affidavit as the grounds for expediting the appeal of the Order.

5. PD-11 conferred with the State on the relief requested herein, and PD-11 and the State agreed to the following proposal for an expedited briefing schedule:

- a. Appellant shall file the initial brief no later than ten days after this Court rules on the 3d DCA's certification of the appeal to this Court;
- b. Appellee shall file the answer brief no later than twenty days after the filing of the initial brief; and

- c. Appellant may file a reply brief no later than seven days after the filing of the answer brief.

WHEREFORE, PD-11 respectfully requests that the Court expedite the appeal of the Order Granting in Part and Denying in Part Public Defender's Motion to Appoint Other Counsel in Unappointed Noncapital Felony Cases.

Dated this 29th day of September, 2008.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by the method indicated below to those indicated this 29th day of September 2008.

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