

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

_____,
Petitioner,
v. _____,
Respondent.

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Civil Action No. _____

ORDER REQUIRING BUDGET

The court has appointed _____ (“Counsel”) to represent Petitioner _____ as lead counsel. Accordingly, it directs that Counsel comply with this order.

I.

Under the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, compensation in death penalty federal habeas corpus proceedings is limited and subject to court approval. The Judicial Conference of the United States encourages courts “to require appointed counsel to submit a proposed initial litigation budget for court approval that will be subject to modification in light of facts and developments that emerge as the case proceeds.” VII GUIDE TO JUDICIARY POLICIES AND PROCEDURES, CH. 6, *Representation in Federal Death Penalty Cases and in Federal Capital Habeas Corpus Proceedings*, ¶ 6.02(F). “Case budgets should be submitted *ex parte* and filed and maintained under seal.” *Id.* “The budget should serve purposes comparable to those of private retainer agreements by confirming both the court’s and the attorney’s expectations regarding fees and expenses,” *id.* at ¶ 6.02(F), and should be developed and adopted according to the following guidelines:

- (a) The hourly rate at which counsel will be compensated (see paragraphs 6.02 A and B);
- (b) The best preliminary estimate that can be made of the cost of all services (counsel, expert, investigative, and other) for the entire case (in its discretion, the court may determine that defense counsel should prepare budgets for shorter intervals of time);
- (c) Agreement that counsel will advise the court of significant changes (counsel, expert, investigative, and other) to the estimates contained in the order;
- (d) Agreement on a date on which a subsequent ex parte case budget pretrial conference will be held;
- (e) Procedure and schedules for submission, review, and payment of interim compensation vouchers (see paragraphs 6.02 C and E);
- (f) The form in which claims for compensation and reimbursement should be submitted (see paragraph 6.02 D) and the matters that those submissions should address; and
- (g) The authorization and payment for investigative, expert, and other services (see paragraph 6.03).

See id. at ¶ 6.02(F)(3). The Judicial Conference guidelines provide, in part, that “[c]ase budgets should be re-evaluated when justified by changed or unexpected circumstances, and should be modified by the court where good cause is shown.” *Id.* at ¶ 6.02(F)(4).

II.

Accordingly, the court directs that, within 30 days of the date of the date of this order, Counsel file under seal and *ex parte* a proposed litigation budget that addresses the factors set out above. Counsel need not address factor (d) because the court does not now intend to conduct an ex parte pretrial conference concerning the litigation budget,

see id. at ¶ 6.02(F)(2), or a “subsequent ex parte case budget pretrial conference,” *id.* at ¶ 6.02(F)(3)(e).

SO ORDERED.

SIGNED May 7, 2009.

United States District Judge