

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JEFFREY HAVARD

PETITIONER

V.

CIVIL ACTION NO.: 5:08cv275-KS

CHRISTOPHER EPPS, et al

RESPONDENTS

MOTION FOR EXPERT ASSISTANCE

Petitioner, Jeffrey Havard, by and through his undersigned counsel and pursuant to 18 U.S.C. § 3599, hereby moves the Court for an order authorizing payment of reasonable and necessary expert services. In support of this Motion, Petitioner would show unto the Court as follows:

1. On May 10, 2010, this Court entered an Order (Docket #39) granting Petitioner leave to conduct limited discovery and to depose Dr. Steven Hayne.
2. Counsel for Petitioner are preparing for that deposition, and will soon be making deposition arrangements with Dr. Hayne and counsel for Respondents.
3. Since the deposition will be focused on “whether Chloe Britt was sexually assaulted,” a question dominated by a host of medical and scientific issues, Petitioner’s counsel need the assistance of an expert to prepare for the deposition. Petitioner’s counsel are not trained in the field of medicine generally, nor in the specialized areas of forensic pathology and child sexual abuse investigation and diagnosis. Accordingly, Petitioner’s counsel require the assistance of someone so trained to determine what questions need to be asked during the deposition and to understand the complex anatomic, medical, and scientific issues implicated by the allegation in this case of sexual battery of a six month old child.

4. Specifically, Petitioner requests that this Court provide financial assistance for his counsel to consult with Dr. James Lauridson, a forensic pathologist from Montgomery, Alabama, who is familiar with Petitioner's case and the issues surrounding the sexual battery allegation advanced by the State of Mississippi. Dr. Lauridson worked on Petitioner's case during state court direct appeal and post-conviction proceedings (*See* Petition Exhibit "B"), so he will not have to "start from scratch" in order to assist Petitioner's counsel with preparation for the deposition of Dr. Hayne.

5. Petitioner also requests that he be provided funds for Dr. Lauridson to review the transcript of the deposition of Dr. Hayne and submit any necessary supplemental reports or affidavits. This request is consistent with the Court's Order (Docket # 39) finding that Dr. Lauridson is "Hayne's witness". (Order at p. 3). Petitioner should be given the opportunity to have his own expert witness review the testimony of Dr. Hayne and render any necessary supplemental opinions.

6. A copy of Dr. Lauridson's curriculum vitae is attached to this Motion as Exhibit "A".

7. Counsel for Petitioner have consulted with Dr. Lauridson regarding the assistance requested in this Motion. Dr. Lauridson estimates that he will spend 5 hours assisting Petitioner's counsel with preparation for the deposition of Dr. Hayne. Dr. Lauridson estimates that he will spend 5 hours reviewing the transcript of the deposition of Dr. Hayne and preparing any necessary reports or affidavits. (*See* Exhibit "B", Declaration of Lauridson at ¶ 5).

8. Dr. Lauridson's fee is \$300.00 per hour. (See Exhibit "B", Declaration of Lauridson at ¶ 4). Accordingly, Petitioner specifically requests \$3000.00 in funding for the expert assistance of Dr. Lauridson.

9. Petitioner avers that the requested expert assistance is reasonable and necessary to further develop his constitutional claims and the facts in support of his claims. See 18 U.S.C. § 3599(f). See also *Gary v. Terry*, 2005 U.S. Dist. LEXIS 37996 at *14 (M.D. Ga. Dec. 23, 2005) (finding that a habeas petitioner had demonstrated that his specific and limited request for expert assistance was reasonably necessary) (opinion attached as Exhibit "C"). As in *Gary*, Petitioner here is making a narrowly tailored, specific request for assistance, which is both reasonable and necessary in light of the Court's order permitting the deposition of Dr. Hayne. Petitioner simply seeks expert assistance to prepare for that deposition and offer further expert reports or affidavits, if necessary in light of the deposition testimony.

10. This Court has authority to grant funds for these reasonably necessary expert services under 18 U.S.C. § 3599.

11. The cost of these expert services shall not exceed \$7,500.00 unless otherwise requested pursuant to 18 U.S.C. § 3599.

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that the Court grant him access to the above-requested funds for expert assistance.

This the 2nd day of June, 2010.

Respectfully submitted,

JEFFREY HAVARD

s/ Graham P. Carner
GRAHAM P. CARNER

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2010, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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s/ Graham P. Carner

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