

TO BE FILED UNDER SEAL

IN THE [REDACTED] COURT FOR [REDACTED] COUNTY, TENNESSEE [REDACTED]
STATE OF TENNESSEE

v.

No(s) [REDACTED]
[REDACTED]

ORDER GRANTING DEFENSE MOTION TO APPLY *EX PARTE* FOR APPOINTED
EXPERT ASSISTANCE

THIS CAUSE came to be heard upon the above-captioned Defendant's *Motion to Apply Ex Parte for Appointed Expert Assistance* (the "Motion"). Based upon the testimony and evidence submitted to the Court, the arguments of counsel, and the record as a whole, this Court makes the following findings:

1. The Defendant has been indicted on the charge of [REDACTED] in violation of T.C.A. §§ [REDACTED]. In particular, the State alleges that, on [REDACTED], the Defendant [REDACTED]

2. As this Court has previously determined, the Defendant is indigent within the meaning of Tennessee Supreme Court Rule 13 and Tennessee Code Annotated Sections 40-14-201 et seq.

3. Pursuant to Tennessee Supreme Court Rule 13, Section 5, this Court finds that a particularized need for the appointment of a defense expert consultant in the field of [REDACTED] for the following reasons:

a. One of the central issues in this case will concern [REDACTED]

[REDACTED]

b. The Defendant requires expert assistance to determine what reasonable inferences can be made from [REDACTED]

4. The defense's proposed expert [REDACTED], possesses the qualifications necessary to assist the defense in this case based upon his/her Curriculum Vitae attached to the Motion, which is incorporated by express reference herein. While defense counsel has made reasonable efforts to locate a suitable expert consultant within 150 miles, he has been unable to do so. Under the circumstances, [REDACTED] is therefore reasonable.

5. Dr. [REDACTED] will assist the defense in reviewing the relevant records and evidence, as well as any relevant scientific literature, and assist the defense in understanding and contextualizing the relevant scientific evidence, as well as in preparing for trial. Dr. [REDACTED] may also participate at trial, including giving testimony. Altogether, it is anticipated that he will spend approximately forty-two (42) hours working in this matter.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion is GRANTED and that Dr. [REDACTED] is hereby appointed as the defense's expert in the area of [REDACTED] pursuant to Tennessee Supreme Court Rule 13, Section 5.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, subject to AOC approval, Dr. [REDACTED] is permitted to bill at a rate of \$150.00 per hour (\$75.00 per hour for travel) for his work in this matter, as well as his reasonable expenses, for a combined amount of up to \$5,250.00.

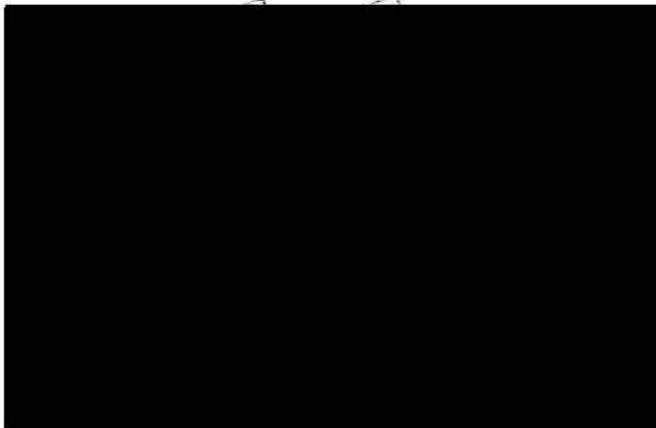
IT IS SO ORDERED on this the [REDACTED] day of [REDACTED].

****Approved****
Initial Incremental Approval
\$150/hr, \$75/hr for travel, up to \$3750.

Laura A. Blount

Laura A. Blount
3/13/24

Approved for Entry:



TO BE FILED UNDER SEAL

IN THE [REDACTED] COURT FOR [REDACTED] COUNTY, TENNESSEE [REDACTED]
STATE OF TENNESSEE

v.

) No(s). [REDACTED]

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)

)

DEFENSE MOTION TO APPLY *EX PARTE* FOR APPOINTED EXPERT ASSISTANCE

COMES NOW, the above-captioned Defendant, [REDACTED], by and through undersigned counsel, and pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution; Article I, § 8 of the Tennessee Constitution; and Tennessee Supreme Court Rule 13, § 5, respectfully moves this Honorable Court to conduct an *ex parte* hearing to determine his or her right to and need for the appointment of an expert consultant in the field of [REDACTED] in light of his indigency in this matter.

In support, the Defendant will show:

1. The Defendant incorporates the following Exhibits into this Motion, which are attached hereto and which shall be designated as "Exh. [exhibit letter], [page number]:

a. Curriculum Vitae of Dr. [REDACTED]

b. [REDACTED]

c. [REDACTED]

2. The Defendant has been indicted on the charge of [REDACTED] in violation of T.C.A. §§ [REDACTED]. In particular, the State alleges that, on [REDACTED] [REDACTED], the Defendant was [REDACTED]

[REDACTED]

[REDACTED]

3. To convict the Defendant of [REDACTED], the State must prove beyond a reasonable doubt that: [REDACTED]

[REDACTED]

As is

relevant to this Motion, the State must [REDACTED]

[REDACTED]

4. The Defendant requires an expert in the field of [REDACTED] to assist in understanding the medical records at issue, particularly the reasonable inferences that might be made from [REDACTED]

[REDACTED]

[REDACTED] Depending upon the expert's findings, the Defendant would further require expert testimony at the trial of this matter.

5. Due process requires that an indigent criminal defendant be afforded the services of appointed expert assistance where a particularized need exists demonstrating that (i) such assistance is necessary to provide the defendant with a fair trial; and (ii) a reasonable likelihood exists that such assistance will materially assist the defendant in preparing for trial. See State v. Barnett, 909 S.W.2d 423, 430 (Tenn. 1995); State v. Scott, 33 S.W.3d 746, 753 (Tenn. 2000); see also Tenn. Sup. Ct. R. 13 § 15(c)(2). A particularized need

exists where the "defendant shows by reference to the particular facts and circumstances that the requested services related to a matter that, considering the inculpatory evidence, is likely to be a significant issue in the defense at trial and that the requested services are necessary to protect the defendant's right to a fair trial." Tenn. Sup. Ct. R. 13 § [REDACTED]

6. The defense proposes that this Honorable Court appoint Dr. [REDACTED] as the defense's expert in [REDACTED]. Pursuant to Tennessee Supreme Court Rule 13 § [REDACTED], the defense provides the following information:

a. *Nature of Services.* Dr. [REDACTED] would perform the following services to the defense in this matter:

i. Reviewing the relevant evidence and discovery materials and consulting with the defense regarding the same.

ii. Educating the defense on the relevant scientific principles, techniques, and limitations of the testing conducted in this matter to assist in preparing for trial.

m. If necessary, give trial testimony regarding his or her expert opinions and conclusions in this case, including observing the testimony of the State's witnesses and offering rebuttal testimony.

b. *Name, Address, Qualifications, and Licensure Status.* Dr. [REDACTED]'s name, address, qualifications, and licensure status are set forth in the Curriculum Vitae incorporated into this Motion as Exhibit A.

c. *Means, Date, Time, and Location.* While it is impossible to predict at this stage the precise extent of his or her involvement in this matter, Dr. [REDACTED]'s services would likely extend from the date he is approved through the trial of this matter.

He would primarily provide these services from his office in [REDACTED], but he may need to occasionally travel to [REDACTED] County, Tennessee. While the defense has made efforts to locate an available expert within one-hundred-fifty miles, including online searches, inquiring with other assistant public defenders and posting to the TACDL community message board, this search has been unsuccessful.

d. *Statement of Itemized Costs.* Dr. [REDACTED] will bill at a rate of \$250.00 per hour. It is expected that the following costs will accrue incident to this matter:

Records Review	Four (4) hours (\$1,000)
Consultation with Counsel	Two (2) hours (\$500)
Trial Preparation and Testimony	Twenty-Four (24) hours ¹ (\$6,000)
Travel (\$75.00 per hour)	Ten (10) hours (\$750)
TOTAL FEES	\$5,250.00

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully requests this Honorable Court to do as follows:

1. Conduct an *ex parte* hearing to determine whether a particularized need exists in this case for the Defendant's access to an appointed expert in the areas of [REDACTED].
2. Following such hearing, find that such a particularized need exists in this matter and that the Defendant qualifies for appointed expert assistance, and issue an Order appointing Dr. [REDACTED] as the defense expert in Pharmacology/Toxicology and providing for his or her compensation as provided in Tennessee Supreme Court Rule 13 § [REDACTED].

¹ This figure presumes a two-day trial during which Dr. [REDACTED] would be present to observe the Government's case-in-chief.

RESPECTFULLY SUBMITTED,

