



LOUISIANA PUBLIC DEFENDER BOARD

EMERGENCY BOARD MEETING

Thursday, July 30, 2015
LSU Law Center, 2nd Floor, Tucker Room, 2:00 pm
Baton Rouge LA 70806

Minutes

1. Call to Order. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was duly convened and called to order by its Chairman on Thursday, July 30, 2015 at 2:15 p.m. at the LSU Law Center, Tucker Room, in Baton Rouge, Louisiana.

The following Board members were present:

Robert Burns, Chairman
Frank Holthaus
Herb Larson
Herschel Richard

Franz Borghardt
Rebecca Hudsmith
Hector Linares

Flozell Daniels, Jr.
Robert Lancaster
Tom Lorenzi

The following Board members were absent:

Hampton Carver
Steven Singer

Jacqueline Nash Grant
Gina Womack

Leo Hamilton

The following members of the Board's staff were present:

Jay Dixon, State Public Defender
Barbara Baier, General Counsel
Natashia Carter, Acting Budget Officer
Jean Faria, Capital Case Coordinator
Anne Gwin, Executive Assistant
Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services
Tiffany Simpson, Juv. Justice Compliance Officer/Director of Legis. Affairs

Chairman Burns thanked the Board members for attending on such short notice and asked Mr. Dixon to give a brief summary of the issues to be discussed.

Mr. Dixon reported that Capital Case Coordinator Jean Faria and he have been subpoenaed to reappear on August 26, 2015, in Sabine Parish (11th Judicial District Court) before Judge Beasley in the matter *State v. Robert J. Barthelemy* to resolve the representation and funding issues in that capital case. Mr. Dixon stated that staff was seeking approval and direction by the board

regarding contracting with counsel, which contract would include payment of legal and other fees.

2. Executive Session*. Mr. Borghardt moved to go into executive session, which was seconded by Hector Linares and passed unanimously.

Mr. Borghardt moved to leave executive session, seconded by Herschel Richard and passed unanimously.

3. Contract Attorney, State v. Barthelemy*. Upon return to regular session, the Board discussed the pending issues in the *Barthelemy* case. Mr. Dixon reported that he and Ms. Faria have been ordered to submit the LPDB's recommendation for contracting with Mr. Richard Goorley to remain as counsel or record through the trial and to provide funding to cover legal expenses. Mr. Goorley has submitted proposed budget in the amount of \$308,923.35 which staff has reviewed. Mr. Larson proposed a six part motion for incorporation into a resolution for board discussion and adoption.

Upon the reading of the proposed motion, the Board asked for further clarification regarding funding policy, protocol and precedent. After a brief discussion the Board resolved that in the best interest of the client, Robert J. Barthelemy, the LPDB would contract with Mr. Richard Goorley as lead counsel at an hourly rate not to exceed \$110 per hour and would provide funding for a mitigator, paralegal, and investigator capped at \$45,000 (pursuant to approved invoices submitted pursuant to LPDB guidelines and protocols) with travel time to be reimbursed at one-half the hourly rates; but, would not include any funds for Mr. Daryl Gold or any other not-certified attorney, or an office administrator.

Mr. Borghardt moved to adopt the six part proposed motion presented by Mr. Larson. The following friendly amendments were made: removal of cites to be replaced by "state laws," that the proposed motion is to indicate unanimity of the Board, and that the unanimous six part motion be presented to the Court by LPDB attorneys of record, John Landis and/or Maggie Broussard. Mr. Larson accepted the friendly amendments and seconded the motion as follows, for adoption and inclusion in a resolution:

(1) That the Louisiana Public Defender Board cannot acquiesce in, and does not agree to the appointment of Mr. Daryl Gold as counsel for Robert J. Barthelemy in State v. Barthelemy, Docket Nos: 2013-CR-072667, 072668, and 27669, in the 11th Judicial District Court;

That such an appointment is contrary to law; this being Louisiana Supreme Court Rule XXXI and La. R.S. 15:169;

Moreover, the LPDB will not fund or pay for any work performed by Mr. Gold as capital counsel due to lack of certification;

(2) That the Court appoint properly certified counsel as second chair in State v. Barthelemy;

(3) That any funding of Robert J. Barthelemy's defense is pursuant to the Court's express Order; and that as a consequence is not to be construed as a waiver of any rights

of the LPDB in its litigation with Richard Goorley or CAPOLA or both. All such rights are expressly reserved;

(4) That the funding of the capital defense of Robert J. Barthelemy will be done in accordance with the standards of this Board and state law;

(5) That payment will be made in accordance with those same standards and regulations, upon receipt of contractually required documentation; and,

(6) Payments will be made in accordance with established LPDB capital procedures and the State of Louisiana Division of Administration.


The motion passed unanimously.

Mr. Larson moved that minutes should reflect that State Public Defender and Capital Case Coordinator Jean Faria have recommended to the Board and the Board has accepted the recommendation that contracting with Mr. Goorley and funding in *State v. Barthelemy* be provided in a manner that is consistent with law. Mr. Borghardt seconded the motion which passed unopposed.

Judge Burns instructed staff to draft a resolution pursuant to the Board's action.

4. Adjournment*. Mr. Richard moved to adjourn, seconded by Mr. Larson and passed unopposed.

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender Board meeting held on the 30th day of July, 2015, as approved by the Board on the 15th day of September, 2015, at Baton Rouge, Louisiana.


Robert J. Burns (Ret.), Chairman

**Requires Board Action*