

# THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

In Re: Amendment to the Plan Under the Criminal Justice Act for Representation on Appeal

Before: KING, Chief Judge, JOLLY, HIGGINBOTHAM, DAVIS, SMITH, WIENER, BENAVIDES, STEWART, PARKER, DENNIS, CLEMENT, POLOZOLA, TRIMBLE, DAVIDSON, LEE, FISH, KAZEN, SCHELL, AND SPARKS

## ORDER

The Plan Under the Criminal Justice Act for Representation on Appeal is amended as follows:

Section 5, paragraph 3 of the Plan is deleted and replaced with the following (revised language underscored):

*“Except for representation furnished in death penalty federal habeas corpus cases and federal capital prosecutions, for representation of a party on a direct appeal from a judgment of conviction in a felony or misdemeanor case the total compensation allowed, excluding approved expenses, shall not exceed \$3,700 for each attorney in each court (or such amount as may hereafter be fixed by statute). For representation in connection with a post-trial motion made after the entry of judgment or in a probation revocation proceeding or for representation provided under subsection (g) of the Act, the compensation shall not exceed \$1,200 for each attorney in each proceeding in each court (or such amount as may hereafter be fixed by statute). For representation of an offender on appeal from a proceeding before the United States Parole Commission under 18 U.S.C. § 4106A, the compensation shall not exceed \$3,900 for each attorney in this court. For representation in an appeal in a non-capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount for representing a defendant in an appellate court.”*

Section 2(e), paragraph 1 of the Guidelines is deleted and replaced with the following (revised language underscored):

*“Maximum Compensation - Except for representation furnished in death penalty federal habeas corpus cases and federal capital prosecutions, allowable compensation*

*rates for counsel are set out in 18 U.S.C. Section 3006A(d)(1). This section fixes compensation at a rate not exceeding \$70 per hour for time expended in-court and \$50 per hour for time reasonably expended out-of-court, unless the Judicial Conference determines that higher maximum rates not to exceed \$75 per hour are justified for particular places of holding court. This “alternative rate” provision is intended to be utilized by the Judicial Conference only if it determines that circumstances existing in particular places of holding court warrant an exception from the general hourly maximums. \$3,700 for each attorney in this court is the maximum for an appeal from a judgment of conviction in a non-capital case and from the denial of habeas corpus relief in a non-capital case; \$3,900 for each attorney in this court is the maximum for an appeal from the decision of the United States Parole Commission in a proceeding under 18 U.S.C. § 4106A; and \$1,200 for each attorney in this court is the maximum for other federal proceedings.”*

For the Council:

CAROLYN DINEEN KING  
CHIEF JUDGE

DATED: January 25, 2001