

STATE OF MINNESOTA
COUNTY OF LYON

IN DISTRICT COURT
FIFTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

File No. 42-CR-08-220

vs.

OLGA MARNIA FRANCO DEL CID
aka ALIANISS NUNEZ MORALES,

Defendant.

FINDINGS OF FACT,
CONCLUSION OF LAW,
AND ORDER

The above-entitled matter came before this Court on Defendant's *ex parte* Application for an Order Granting Payment for Services Other Than Counsel Pursuant to Minnesota Statute § 611.21.

Based upon all the files and records herein, the Court makes the following:

FINDINGS OF FACT

1. Defendant requires an expert Accident Reconstruction Engineer, for the purpose of analyzing the accident in this matter, and, if warranted, to testify as to the circumstances underlying the accident, to a reasonable degree of scientific certainty.
2. Defendant requires an expert in Pharmacology, for the purpose of analyzing any possible intoxicating effect of medications that had been administered to Defendant at the time of the first interrogation at the hospital, and, if warranted, to testify as to any affect such medication may have had on Defendant's ability to accurately recall events, answer police questions, and/or understand the situation.
3. Defendant requires services of a Private Investigator, for the purpose of obtaining recorded statements from witnesses and locating any witness that may not be located by the State in this matter.
4. The services enumerated above are necessary and Defendant is financially unable to obtain those services.

Based upon the above Findings of Fact, the Court makes the following:

CONCLUSION OF LAW

FILED IN THIS OFFICE

4-9-08

Karen J. Bierman
COURT ADMINISTRATOR
Marshall, Lyon County, Minnesota

- I. Defendant has made the requisite showing to obtain services other than counsel under Minn. Stat. § 611.21.

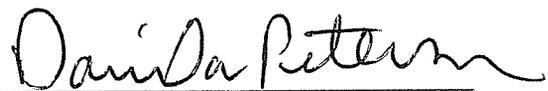
Based upon the above Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

1. Defendant's Application is GRANTED.
2. Counsel for Defendant is authorized to obtain the services of:
 - a. An Accident Reconstruction Engineer;
 - b. An Expert in Pharmacology; and
 - c. A Private Investigatorfor Defendant.
3. Upon filing claims for compensation supported by an affidavit (specifying the time expended, services rendered, and expenses occurred on behalf of Defendant, as well as any compensation received in the same case or for the same services from any other source), Lyon County is directed to pay the providers of these three services directly.
4. Absent further authorization of this Court and the Chief Judge of the District,
 - a. The Accident Reconstruction Engineer shall be compensated for \$1,000.00, plus reimbursement for expenses reasonably incurred;
 - b. The Expert in Pharmacology shall be compensated for \$1,000.00, plus reimbursement for expenses reasonably incurred;
 - c. The Private Investigator shall be compensated for \$1,000.00, plus reimbursement for expenses reasonably incurred.

Dated: April 8th, 2008

BY THE COURT:



David W. Peterson
Judge of District Court

MEMORANDUM

Defendant has been charged with four counts of Criminal Vehicular Operation, in violation of Minn. Stat. § 609.21, Subd. 1(1), one count of Failure to Stop at Entrance of Through Highway, in violation of Minn. Stat. § 169.20, Subd. 3(a), and one count of Driving Without a Valid License, in violation of Minn. Stat. § 171.02, Subd. 1.

Defendant has applied for the provision of services other than counsel. Minn. Stat. § 611.21(a) provides, in part:

“[...]Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the services on behalf of the defendant. [...] The court shall determine reasonable compensation for the services and direct payment by the county in which the prosecution originated, to the organization or person who rendered them, upon the filing of a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source.”

Defendant's application requests provisions for three services: 1) an Accident Reconstruction Engineer; 2) an expert in Pharmacology; and 3) a Private Investigator. Defendant asserts that the Accident Reconstruction Engineer would be able to analyze the accident and testify, to a reasonable degree of scientific certainty, as to whether it is possible that Defendant could have possibly been driving the vehicle at the time of the accident, based upon Defendant's position in the car following the accident. Defendant asserts the Pharmacology expert would be able to testify as to any intoxicating effects of medications administered to Defendant prior to her being questioned at the hospital and how such may have implicated Defendant's ability to recall the events, answer questions, and understand the gravity of the situation. Finally, Defendant asserts that the Private Investigator would be able to obtain recorded statements from witnesses and locate any witnesses that the State does not locate for its case.

The statute requires that the Court order the provision of these services if they are necessary and Defendant cannot afford them. The Court has made the appropriate

Findings and orders the provision of services, to be paid by Lyon County, as the county in which the prosecution originated.

Minn. Stat. § 611.21(b) provides:

“The compensation to be paid to a person for such service rendered to a defendant under this section, or to be paid to an organization for such services rendered by an employee, may not exceed \$1,000, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court as necessary to provide fair compensation for services of an unusual character or duration and the amount of the excess payment is approved by the chief judge of the district. The chief judge of the judicial district may delegate approval authority to an active district judge.”

Therefore, the Court has ordered that no more than \$1,000, excluding reasonable expenses, shall be paid to each of these experts. Pursuant to the statute, if Defendant requires services from any of these experts in excess of \$1,000, Defendant must demonstrate to the Court that additional funds are necessary to provide services of “unusual character or duration,” and such must be approved by both this Court and the Chief Judge.

MWP
4-8-07