

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

RAY JEFFERSON CROMARTIE, :
 :
 : Petitioner, :
 :
 : VS. :
 :
 : WARDEN, GEORGIA DIAGNOSTIC :
 : AND CLASSIFICATION PRISON, :
 :
 : Respondent. :

CIVIL ACTION NO. 7:14-CV-39 (MTT)

ORDER

Pending before the Court are Brian S. Kammer’s motion to withdraw and Martin McClain’s motion for appointment of counsel. (Docs. 8, 11).

In an Order dated March 24, 2014, the Court, pursuant to 18 U.S.C. § 3599, appointed Kammer to represent Cromartie. (Doc. 6). On April 1, 2014, Respondent filed a motion to dismiss Cromartie’s 28 U.S.C. § 2254 petition as untimely. (Doc. 9). In his motion to withdraw, Kammer explains that he may have filed Cromartie’s federal habeas petition untimely under the provisions of 28 U.S.C. § 2244(d)(1)(A), and, therefore, his conduct may be at issue in determining whether an equitable remedy is available to Cromartie. (Doc. 11 at 2). He requests to withdraw due to this conflict.

Kammer’s motion to withdraw is **GRANTED**.

McClain, who practices law with the firm McClain & McDermott, P.A., of Wilton Manors, Florida, has requested that he be appointed to represent Cromartie. (Doc. 8). Cromartie has been advised of Kammer’s intention to withdraw and has consented to substitution of McClain as his counsel. (Doc. 11 at 2).

McClain has represented Cromartie since 2001, representing him in post-conviction proceedings seeking habeas relief in Georgia state courts. (Doc. 8 at 8-9). He is, therefore, thoroughly familiar with the state court record in Cromartie's case. (Doc. 8 at 9). McClain meets the requirements of 18 U.S.C. § 3599(c) because he has "been admitted to practice in the court of appeals for not less than five years, and ... [has] had not less than three years experience in the handling of appeals in that court in felony cases." 18 U.S.C. § 3599(c); (Doc. 8 at 7-8). Thus, he qualifies for appointment.

Accordingly, pursuant to 18 U.S.C. § 3599, McClain's motion for appointment of counsel is **GRANTED**. (Doc. 8).

McClain will be compensated at the rate approved by the Administrative Office of the United States Courts, which is \$180.00 an hour, for both in court and out-of-court time. Instructions regarding procedures for obtaining investigative, expert, or other services necessary for representation of Cromartie; limitations on fees for such services; submission of vouchers; and reimbursement of out-of-pocket expenses are detailed in the Court's March 24, 2014 Order and remain in effect. (Doc. 6).

SO ORDERED, this 14th day of April, 2014.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT