

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

WILLIAM JOSEPH HOLLY

PETITIONER

v.

No. 3:98CV53-A-A

STATE OF MISSISSIPPI, ET AL.

RESPONDENTS

**ORDER GRANTING MOTIONS [63], [64] TO RECONSIDER
THE COURT'S ORDER DENYING COUNSEL'S MOTIONS TO WITHDRAW,
SUBSTITUTING ATTORNEY ROBERT B. MCDUFF AS
THE PETITIONER'S APPELLATE COUNSEL**

This matter comes before the court on the motions [63], [64] by petitioner's current counsel for the court to reconsider its order denying counsel's previous motions [60], [61] to withdraw and substitute attorney Robert B. McDuff as counsel to represent the petitioner during his appeal of this case. In its previous ruling, the court denied motions by both attorneys to withdraw because, "Robert McDuff (or any other attorney) would require a great deal of time to become familiar with the files and records in this case before he could draft a cogent appellate brief in this case, while Frank Burnette, who is intimately familiar with the details of the case, could immediately choose the issues and draft the brief. The attorney who has the greatest familiarity with the case – Frank Burnette – is the logical choice to prosecute an appeal of that case."

In his motion to reconsider (which has been joined by attorney David Bell), Frank Burnette attached an affidavit from Robert McDuff stating, "I will not bill the Court for any time spent reviewing existing pleadings in the case, meeting with the client or traveling to meet the client, or conducting legal research of cases already cited in the District Court pleadings." Robert McDuff has litigated federal *habeas corpus* petitions in capital cases in the past, and the court believes that he is well-qualified to represent William Joseph Holly in the appeal of the present case.

For these reasons, the instant motions [63], [64] to reconsider are **GRANTED**; counsel's motions [60], [61] to withdraw are **GRANTED**, and attorney Robert McDuff is **APPOINTED** as counsel of record for the appeal of this case.

SO ORDERED, this the 22nd day of July, 2010.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE