

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

EDWARD J. KELLY, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 JUSTICE ADMINISTRATIVE )  
 COMMISSION, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

Case No. 2D12-2477

Opinion filed October 24, 2012.

Petition for Writ of Certiorari to the  
Circuit Court for Lee County; Mark A.  
Steinbeck, Judge.

Paula S. Saunders, Tallahassee;  
James T. Miller, Jacksonville; and  
Michael Robert Ufferman, Tallahassee,  
for Petitioner.

Christian D. Lake, Assistant General  
Counsel, Tallahassee, for Respondent.

KELLY, Judge.

Edward J. Kelly seeks certiorari review of an order awarding him \$4000 in attorney's fees for his representation of an indigent criminal defendant, instead of the \$20,895 he requested. Kelly contends the trial court departed from the essential

requirements of the law in limiting his fees without making a finding as to the reasonable number of hours he worked in representing his client. We agree.

In awarding fees to an attorney appointed pursuant to statute, the trial court must find that appointed counsel reasonably expended a certain number of hours in representing the indigent client, and then, using the established hourly rate, compute the fee. Swartz v. Bd. of Cnty. Comm'rs of Manatee Cnty., 842 So. 2d 980, 982 (Fla. 2d DCA 2003); Zelman v. Justice Admin. Comm'n, 78 So. 3d 105, 107 (Fla. 1st DCA 2012). The Justice Administrative Commission concedes the trial court order constitutes a departure from the essential requirements of the law because the court failed to make appropriate findings regarding the reasonable number of hours expended by Kelly. Accordingly, we grant the petition, quash the fee award, and remand for reconsideration. On remand, if the trial court determines an award greater than the statutory cap is justified, it should make the appropriate findings to support the award. See Zelman, 78 So. 3d at 106-07 (and cases cited therein).

Petition granted.

VILLANTI and CRENSHAW, JJ., Concur.