

By the Court: I will do that. So ordered." (RR4, 13,14)

Then the Court stated to Mr. Arnold: "As of today's date you have got the file.

Look at the file. You will be responsible for the motions, the requests, court dates, looking at the file, investigator, et cetera?

By Mr. Arnold: I will be back withing the next two or three days with a series of motions in that regard, Judge.

By the Court: Okay." (RR4, 14)

CLAIM FOR RELIEF NUMBER ONE

THE REMOVAL OF ATTORNEY WAYNE HILL, WITHOUT NOTICE OR A HEARING, AS HIS ATTORNEY AFTER TWO YEARS OF AN EXISTING ATTORNEY CLIENT RELATIONSHIP VIOLATED HIS U.S. CONST. AMEND. VI RIGHT TO COUNSEL AND HIS U.S. AMEND. V & XIV RIGHT TO DUE PROCESS.

"....counsel, even one who not been fully compensated for past services or compensated for future service, cannot bow out without notice to the court and the accused and frustrate forever accused's rights to protect his vital interests." **Atilus v. United States**, 406 F. 2d 694 (5 Cir. 1969)

It is clear that an attorney/client relationship existed between Wayne Hill and Applicant. It is also clear that relationship was strained as evidenced by all of the correspondence included within the Clerk's Record of this cause. The strained relationship

was caused by a failure to communicate between counsel and client. Client did not know or understand what counsel was doing in preparation for the trial of this cause, and client made this fact clear in all of the communications between client and the court that are now found in the Clerk's Record. Strained as it may have been the client had a U.S. CONST. AMEND. VI & XIV Due Process, right not to have that relationship severed by the Court or his attorney without notice and a hearing to determine if that course of conduct was necessary. In any attorney/client relationship it is the client's interests that are paramount. An attorney may not like his client, but that would not justify a severance of the relationship to the detriment of the client. The right to notice and a hearing, even if in camera, is a basic due process right of the client before the court can summarily allow the attorney to withdraw. In this case it is clear that the attorney was allowed to withdraw without any precautions having been taken to ensure that Applicant would not be harmed because of the removal. Applicant lost his most important witness in the trial, his father, due to the great time lapse between indictment and trial. Some of this lapse was caused by the removal of his attorney without notice or a hearing.

On November 10, 2003, a speedy trial issue was taken up by the Court. Wayne Hill was called as a witness at that hearing, and at that hearing he was asked if the defendant indicated to the Court that he wanted a speedy trial. Even though the Clerk's Record of this cause speaks for itself on his repeated requests for a speedy trial, Mr. Hill responded "I believe that's what's reflected in the letter that you are holding." (RR6, 61) In reference to

one of the letters that is included in the Clerk's File. Also, at this hearing the State delved into the ending of his attorney/client relationship with Applicant. Wherein the State stated the following:

By the State: "And the way your relationship ended with this defendant is - - as I recall it, was basically there was a hearing before Judge Stricklin⁴ where he said in so many words he didn't want you to be his lawyer anymore?"

By Wayne Hill: I left his representation. It was probably a mutual situation."
(RR6, 63)

The State then argued:

By Kelly Siegler: "Judge there might be some cases where you could push the blame a little bit on this side of the table for a case taking so long to go to trial, if you even want to say that this one has taken a long time to go to trial, which I do not concede.

This, however, cannot possibly be applied in this case. As you remember, being generous when I refer to the defendant, he is a little contrary, and as you recall, because these lawyers were not present during the time that Mr. Hill represented this defendant.

First of all, everybody in the room would agree as to what a great reputation

⁴There was no hearing wherein Applicant was present and given notice that Mr. Hill wanted off the case. Mr. Hill said nothing about there being any ethical problem, only that it was PROBABLY a mutual situation.

for our criminal defense lawyers Mr. Hill has in this building and in the court house all around Houston, Texas.

And for the defendant to try and put some kind of blame on Mr. Hill for the fact that the case hasn't come to trial right now is pretty much ridiculous. But you will recall that the relationship the defendant had with Wayne Hill by the time their relationship ended, was pretty much a difficult relationship between the two of them." (RR6, 68,69)

There certainly is no record, other than the letters written to the court that appear in the clerk's file to reflect the internal workings of the attorney/client relationship between Applicant and Mr. Hill. What or how Kelly Siegler could know about how the attorney/client relationship was operating is not shown by the record, but she gave Mr. Hill a chance to state why he was removed from the case and he stated that he believed it was a mutual situation. Therefore, he was correct that from his perspective he wanted out, but there is nothing in the record to show that Applicant had a say in the decision whatsoever. Also, it is clear that Mr. Hill, when under oath, made no mention whatsoever of any ethical difficulties he was having with Applicant.

In this case it is clear that attorney Wayne Hill and the Court treated the attorney/client relationship of Applicant and Mr. Hill as Mr. Hill's relationship and that Mr. Hill's part of the relationship was the dominant portion. That is the reason that Applicant was not given notice or a chance to be heard at the ex parte hearing to allow Mr. Hill to withdraw.