

It is also important to note that as pointed out by Applicant in one of his letters to the clerk (CR, 120) , that it wasn't until after Mr. Hill's departure that the State decided to seek the death penalty. As pointed out by Applicant, Art. 26.052(e) V.A.C.C.P. states that in a capital case that the Judge shall appoint two attorneys to represent the indigent defendant as soon as practical after charges are filed unless the State gives notice in writing that the death penalty will not be sought. See Exhibits "C" & "D". For two years Applicant only had one attorney. For this two year period there was no seeking of the death penalty. Kelly Siegler, the lead prosecutor, pointed out how great a lawyer Mr. Hill was, and it was not until he was gone that she decided to seek death in this case. Applicant suffered great prejudice by the Court allowing Mr. Hill to sever the attorney/client relationship without notice or a hearing.

#### **CLAIM FOR RELIEF NUMBER TWO**

**APPLICANT WAS DENIED THE RIGHT TO COUNSEL AS GUARANTEED BY U.S. CONST. AMEND. VI BY THE TRIAL COURT'S REFUSAL TO APPOINT TWO ATTORNEY'S TO REPRESENT HIM AS REQUIRED BY ART. 26.052(e) V.A. C.C.P.**

#### **CLAIM FOR RELIEF NUMBER THREE**

**APPLICANT WAS DENIED DUE PROCESS OF LAW AS GUARANTEED BY U.S. CONST. AMEND. V AND XIV BY THE TRIAL COURT'S REFUSAL TO FOLLOW STATE LAW AND APPOINT TWO ATTORNEY'S TO REPRESENT HIM IN ACCORDANCE WITH ART. 26.052 (e) V.A.C.C.P.**

The United States Supreme Court recognized in **Barker v. Wingo**, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972), that a defendant can suffer prejudice in many ways. As stated in that case prejudice can be occasioned by oppressive pretrial incarceration, a delay can cause anxiety and concern by the accused, and the defense may be impaired. There is no doubt that all of the correspondence between Applicant and the Court found in the Court's file shows that he was suffering anxiety and concern because he was just sitting in jail and he did not understand what, if anything, was being done on his case..

Examples of this appear as follows:

"...I know since I'm an indigent defendant my fate is not as important as some one that pays you, but my sanity is important to me and all this time you've left me in the dark is very nerve racking and hard on my mind. I know that this does not matter to you, because you continue to do this to me." (CR, 35)

"...I'm not trying to tell you how to do your job, but for my sanity will you please come over or notify me in some way this week and tell me what's going on in my case. That would be the week of Nov. 11, 2002. This is my 3<sup>rd</sup> attempt to try to find out something in a month. I'll write the judge and see if she will help me. I know I have to be the oldest case on the 180<sup>th</sup> docket. How can yall keep resetting me. Do yall plan on resetting me forever. After we go to court on Dec. 4, 2002, Do not reset me again. I'm ready to go to trial." (CR, 31)

"...Your Honor I 'm so distraught and anxious that words cannot describe as you can imagine after being in jail for 22 months with no bond and left with no contact with my lawyer.." (CR, 29)

" So who does care about my Constitutional Rights, apparently not my so called lawyers. They do not care if I get so depressed that I do not eat or that the walls close in on me. They don't care that some nights I feel as if I'm having a nervous breakdown, they only want a plea bargain." (CR, 46)

The only threatening with the death penalty that was going on , before Mr. Hill departed the case, was between Mr. Hill and Applicant.

" You have threatened me with the death penalty 2 times or take some kind of plea bargain." (CR, 35)

State law required that the Court appoint two attorneys to represent Applicant as soon as practical after charges were filed. The trial Court did not do this even though the Court received notice after notice from Applicant that he was suffering from a lack of contact with his attorney. One of the reasons for having two attorneys is so that there is twice the opportunity for contact with the accused. By an utter disregard for the dictates of Art. 26.052(e) V.A.C.C.P. the Court had a hand in causing the relationship problems between Mr. Hill and Applicant that the State and the Court was aware of this problem. Then allowing Mr. Hill to summarily dump Applicant, without notice or a hearing, and leave him without counsel after two years of representing him caused him great prejudice and eventually lead