

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
	:	Case Nos. 2009-1878 & 2009-1958
Plaintiff-Appellant,	:	
	:	On Appeal from the Montgomery
v.	:	County Court of Appeals
	:	Second Appellate District
FRANK ROBERT HAMILTON, III,	:	
	:	C.A. Case No. 22895
Defendant-Appellee.	:	

MOTION FOR APPOINTMENT OF THE OFFICE OF THE OHIO PUBLIC DEFENDER AS COUNSEL

Frank Robert Hamilton, III, moves this Court to appoint the Office of the Ohio Public Defender as counsel in the above-captioned case. This Court has accepted the State's appeal as a certified conflict in Case No. 2009-1958, as well as accepting for review the Proposition of Law contained in the State's Memorandum in Support of Jurisdiction in Case No. 2009-1878. (Entry, December 30, 2009.) This Court has consolidated the two cases for briefing. *Id.* The consolidated case involves a felony, and Mr. Hamilton is indigent. Mr. Hamilton's Affidavit of Indigency is attached to this motion. Supreme Court Practice Rule III, Section 7 states that:

If the Supreme Court grants leave to appeal in a discretionary appeal involving a felony and an unrepresented party to the appeal is indigent, the Supreme Court will appoint the Ohio Public Defender or other counsel to represent the indigent party or order the court of appeals to appoint counsel as provided in S. Ct. Prac. R. II, Section 2(D)(2).

In accordance with S. Ct. Prac. R. III, Section 7, Mr. Hamilton requests that this Court appoint the Office of the Ohio Public Defender as counsel in the above-captioned case.

FILED
MAR 02 2010
CLERK OF COURT
SUPREME COURT OF OHIO

Respectfully submitted,

OFFICE OF THE OHIO PUBLIC DEFENDER



CRAIG M. JAQUITH 0052997
Assistant State Public Defender
Counsel of Record

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COUNSEL FOR DEFENDANT-APPELLANT,
FRANK ROBERT HAMILTON, III

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Appointment of the Office of the Ohio Public Defender as Counsel was forwarded by regular U.S. Mail to Kirsten Brandt, Montgomery County Assistant Prosecutor, 301 W. Third Street, Fifth Floor, Dayton, Ohio 45422, on this 2nd day of March, 2010.



CRAIG M. JAQUITH 0052997
Assistant State Public Defender
Counsel of Record

COUNSEL FOR DEFENDANT-APPELLANT,
FRANK ROBERT HAMILTON, III

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Plaintiff-Appellee,

vs.

FRANK ROBERT HAMILTON, III,

Defendant-Appellant.

:
:
: Case Nos. 2009-1878, 2009-1958
:
:

AFFIDAVIT OF INDIGENCY

I, Frank Robert Hamilton, III, do hereby state that I am without the necessary funds to retain counsel to represent me in this action, for the following reasons:

*On December 17th 2009 I filed
bankruptcy. I am currently
self-employed and unable to
retain counsel.*

Frank Hamilton
Frank Robert Hamilton, III

Sworn to, or affirmed, and subscribed in my presence this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

see attached.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Ventura

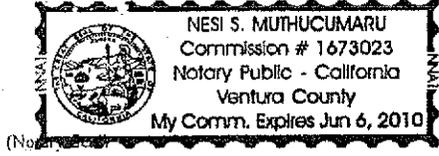
On 2-23-10 before me, Nesi S. Muthucumaru
(Here insert name and title of the officer)

personally appeared Frank Robert Hamilton III

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
Nesi S. Muthucumaru
Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustees(s)

Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document