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Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

November 23, 2004

Mr. Michael G. Millman
Executive Director
California Appellate Project
101 Second Street, Sixth Floor
San Francisco, CA 94105

Re: Procedure for Seeking Compensation for Post-conviction Discovery

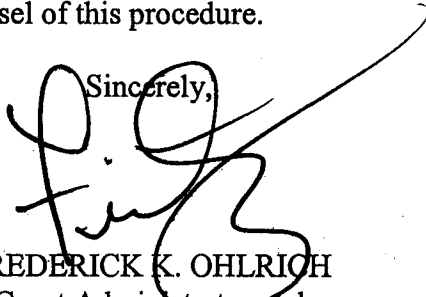
Dear Mr. Millman:

Pursuant to Penal Code section 1054.9, counsel may request post-conviction discovery. Under the court's decision in *In re Steele* (2004) 32 Cal.4th 682, 688, that request should generally first be filed in the trial court that rendered the judgment.

In light of *Steele*, and as an exception to the court's Policies Regarding Cases Arising from Judgment of Death, Standard 2-1, appointed counsel need not obtain prior authorization to litigate discovery in the superior court in order to be compensated or reimbursed for discovery work pursuant to Penal Code section 1054.9. Counsel appointed on either a time and costs or a fixed fee basis will be compensated for this discovery work on a time and costs basis. When appointed counsel seeks compensation for post-conviction discovery, the amount requested for time and costs should first be submitted to the superior court for its determination whether the amount is reasonable under the circumstances of the case. Appointed counsel should then submit the superior court's determination to this court with counsel's request for payment.

Please advise appointed counsel of this procedure.

Sincerely,


FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court