

Serial: 205202

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99027-SCT

*IN RE: MISSISSIPPI RULES OF APPELLATE PROCEDURE*

**ORDER**

This matter is before the Court, *en banc*, on the Court's own motion. After due consideration, we find that amending Mississippi Rule of Appellate Procedure 22(d), as set forth in Exhibit "A," will promote the fair and efficient administration of justice.

IT IS THEREFORE ORDERED that Mississippi Rule of Appellate Procedure 22(d) is amended, as set forth in Exhibit "A." The amendment is effective upon the entry of this order.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a certified copy to West Publishing Company for publication in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*, and in the next edition of *Mississippi Rules of Court*.

SO ORDERED, this the 21st day of April, 2016.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., CHIEF JUSTICE  
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT "A"

**RULE 22. APPLICATION FOR POST-CONVICTION COLLATERAL RELIEF  
IN CRIMINAL CASES**

**(d) Standards and Qualifications for Attorneys Appointed to Represent Those Under Sentence of Death in Post-conviction Proceedings.** At least one (1) attorney representing those under a sentence of death seeking post-conviction relief shall have primary responsibility for and personally appear at proceedings, and shall,

(1) Be admitted to practice law in Mississippi, being a member in good standing of the Bar for at least five years immediately preceding the appointment, or admitted pro hac vice pursuant to order entered under M.R.A.P. 46 and being a member in good standing of that attorney's home jurisdiction for a like period immediately preceding the appointment,

(2) Be admitted to practice in the federal courts of Mississippi and before the United States Court of Appeals for the Fifth Circuit, or, in the case of attorneys appearing pro hac vice, admitted to the federal district courts and the circuit court of appeals having jurisdiction in their home areas,

(3) Have practiced for three years, in federal or state court, in at least one of the following areas:

- (a) criminal trials or direct appeals before a court of record, and/or
- (b) post-conviction or habeas proceedings.

(4) Have not previously represented the capital petitioner in the case either in the trial court or in the direct appeal, unless the petitioner and counsel expressly request continued representation and waive all potential issues that are foreclosed by continued representation,

(5) Have substantial knowledge and understanding of the relevant state and federal law, both procedural and substantive, governing capital cases, including completion of the requisite educational training enumerated in subsection (e), and

(6) Have otherwise demonstrated the necessary proficiency and commitment to zealous advocacy which exemplify the quality of representation appropriate to capital cases.

Provided, however, that with the approval of the trial court, an attorney may be appointed who does not meet the stated qualifications in (1) - (3) upon a showing that the attorney's experience, stature and record in a different type of practice (e.g., civil litigation, academic work, or work for a court or prosecutor) enable the trial court to conclude that the attorney has extensive experience in complex cases substantially equivalent to that of a qualified attorney.