

IN THE GENERAL SESSIONS COURT OF KNOX COUNTY TENNESSEE

In re: )  
 )  
Petition of Knox County ) Docket No. \_\_\_\_\_  
Public Defender )

**AFFIDAVIT OF DONALD A. BOSCH**

STATE OF TENNESSEE )  
 )  
COUNTY OF KNOX )

The undersigned, being duly sworn, states as follows:

1. My full name is Donald A. Bosch. I am a licensed attorney in the State of Tennessee since 1988 and my BPR number is 013168. My office address is The Bosch Law Firm, P.C., and 712 S. Gay Street, Knoxville, Tennessee 37902.

2. In my practice and as the principal of The Bosch Law Firm, P.C. I have two associate attorneys, Ann C. Short-Bowers, licensed since 1982 and Melissa A. Franklin, licensed since 2007. I also maintain an of counsel position, James H. BeMiller, licensed since 1993.

3. In addition to the aforementioned attorneys in paragraph 2, I maintain three (3) full-time staff, all possessing undergraduate bachelor's degrees from the University of Tennessee.

4. In addition to the staff aforementioned in paragraphs two (2) and three (3) of my Affidavit, my office also employs a college intern 30 hours a week who initially reviews and transcribes all video and audio evidence received in the course of our case investigations. Additionally, I employ as an independent contractor a private investigator, Dick Qulia, a retired FBI agent who works approximately 10 to 25 hours a week, on average, on behalf of our clients.

5. The Bosch Law Firm, P.C. and my principle practice consists of criminal defense matters. I estimate that criminal defense constitutes approximately 75% of my practice. The approximate breakdown of the active criminal cases in my office is as follows:

- A. state misdemeanors and DUI's = 40%
- B. state felonies = 20%
- C. federal criminal defense matters = 30%
- D. state juvenile matters = 5%
- E. criminal appellate matters = 5%

6. My office has approximately 200 active criminal cases. Not included in this total are post-disposition or "return" files in which clients are completing requirements of probation or diversion and all cases involving cited traffic ordinances.

7. All clients of my office typically have multiple meetings in person with one (1) or more of the lawyers in my office, including myself. The only exception is made for clients with minor matters (misdemeanors) who reside out of state and it is impractical for them to return to the area, and we are able to secure resolutions which waive their appearance.

8. It is my opinion that the ethical standards for a lawyer do not vary for the investigation and/or preparation necessary to defend a citizen accused of either misdemeanors or felonies. The requirement as set out in Rules 1.1, 1.2 & 1.4, T.R.P.C. is that an attorney must be competent by way of skill, research and preparation on any matter. By way of example, some misdemeanors require much more work than others while some felonies, such as a worthless check case may require less investigation.


9. There are unique difficulties in the investigation of criminal cases for the defense. Given the limited scope of discovery in criminal matters (ex., no right of deposition), a defense lawyer and/or his or her representatives must attempt to uncover as much information as possible about a case themselves and often with little cooperation or underlying information. It is improper and arguably malpractice for an attorney to rely simply on a criminal investigation as prepared by the state and its representatives, as in my experience such information is often incomplete or even inaccurate.

10. As it further relates to the investigation and preparation of all criminal matters, the state has significant resources often not available to the defense. Law enforcement, with its resources, forensic tools, training and numbers of employees can usually prepare cases at the investigatory stage, to present to prosecutors, whereby defense lawyers must undertake, to their limited ability to reconstruct similar efforts. In my experience, this is often impractical, cost prohibitive and sometimes impossible.

11. I have reviewed the Sworn Petition to Suspend Appointment of the District Public Defender to Defendants in Knox County General Sessions Court, Misdemeanor Division provided by the Knox County Public Defender's Office. It is my opinion that given their numbers along with the unique obligations of a defense lawyer, that such caseloads and lack of public defender experience create a *per se* ineffective assistance of counsel.

12. If I (and my office) were placed into a similar situation regarding the current caseloads assigned to the Knox County Public Defender's Office, it would be impossible to represent those clients and meet the required ethical and constitutional requirement for such representation.

Affiant further saith not.

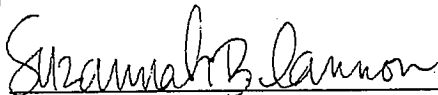
  
DONALD A. BOSCH

STATE OF TENNESSEE

COUNTY OF KNOX

Before me, the undersigned notary, of the state and county aforesaid, personally appeared Donald A. Bosch, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), executed the foregoing instrument for the purpose therein contained.

WITNESS my hand and seal, this 26<sup>th</sup> day of February, 2008.

  
Notary Public

My Commission Expires: 04/28/2010

