

**MINUTES OF THE CRIMINAL LAW SECTION
STATE BAR OF MICHIGAN
January 19, 2010**

Present at the meeting: Steve Taratuta, Opolla Brown, M. Jon Posner, Hon. John Hammond, Barbara Levine, Steve Gobbo, Ralph Simpson, Ken Malkin, Matt Smith, Graham Teall, David Gilbert, Steve Lockhart, Charles Marr, Jonathan Sacks and Dan Levy as members of the Council and Lynn D’Oriro – Children’s Law Section, John Potsbury for David Leyton – P.A.A.M. and Elaine Spiliopoulos - Administrator.

I. Call to Order:

Meeting was called to order at 6:33 p.m.

- a. Absences with Notice: Michael Marutiak, Ericka Julian, Judge Hoort, Michael Brady and Jerry Surowiec – Motion was made and seconded to excuse these absences.
- b. Absences without Notice: Elias Escobedo

II. Approval of Agenda:

Motion was made by M. Jon Posner to approve the minutes of the November 17, 2009 Meeting with corrections. The motion was seconded by Matt Smith. The motion carried.

III. Approval of the Minutes:

Motion was made by Charles Marr and was seconded by Matt Smith to approve the Minutes from the November 17, 2009 Meeting with Corrections. Approved without objection.

IV. Treasurer’s Report:

Given by David Gilbert. A Motion to accept was made and seconded. Approved without objection.

David reported that he did receive an invoice from Elaine for \$1000.00 for service rendered in relation to her role as Administrator.

V. Amicus Brief:

The C.L.S. has been asked to file an Amicus Brief in the case of People v. Duncan. A Motion to File an Amicus Brief was made by M. Jon Posner and was seconded by Matt Smith. Approved without objection.

A Motion to Form an Amicus Committee was made by Matt Smith and was seconded by M. Jon Posner. Approved without objection. The Chair asked for volunteers for the Committee. Ken Malkin, Steve Lockhart and Opolla Brown agreed to be on the Committee. The Committee is charged with finding a volunteer to write the brief and have a final draft to the Council by March 10, 2010. It was suggested that the brief concentrate on the 11 Principles adopted by the C.L.S. as well as the history of the C.L.S. involvement with indigent defense reform.

Ken Malkin reported on People v. Merriman. He requested that we file a Motion in Support of the Brief filed by the Civil Rights Commission which asks the Court to either (1) Grant the Application for Leave, and articulate standards for determining what compensation is adequate for counsel assigned to represent indigent defendants, and then remand to the trial court for an evidentiary hearing and determination of whether those standards were met, or (2) In Lieu of Granting Leave, remand the case to the trial court and order that it both conduct a hearing to establish an evidentiary record, and either state its basis for concluding that the fees rendered were reasonable or order that the fees paid be adjusted so that they are reasonable. A Motion was made and seconded to file the Motion and to approve the payment of the Motion filing fee. There were three (3) votes in opposition and one (1) abstention.

HB 4497, 4498 and 4499 (Good Time Credits) – Motion to Table was made and seconded. Approved without objection. There was a brief discussion regarding these bills. Barbara Levine gave the Council a brief history lesson on the subject and informed of us of the difference between “good time” vs. “disciplinary” credits. John Potsbury for David Layton expressed that P.A.A.M. is totally opposed to these bills. Judge Hammond indicated that the Sentencing Guideline Commission needed to be re-instated. A number of members echoed this in approval.

VII. Committee Reports:

- a. The Shanty Creek Ski Conference will be held on February 14 to 16, 2010. The speaker for Sunday is Tim Baughman who will give us his annual update on the law. On Monday Morning Tim McMorrow will give us a presentation on the Law and Trends of Discovery. Monday afternoon will feature Graham Teall and Steve Fishman who will give us practical pointers on the use of Discovery. A motion for a \$7000.00 budget was made by Steve Taratuta and was seconded by M. Jon Posner. The Motion was passed with one objection (O. Brown). There was further discussion as to “getting the word out” and confirming the rooms for the guests and committee members.
- a. Spring Conference. The committee indicated that they were 99% sure that the Conference would be held in Frankenmuth on June 18 and 19, 2010. There was a general consensus that the Conference be held on June 4 or 11, 2010. There was a request for possible topics. A Motion was made and seconded for a budget to be set at \$7000.00 for the Spring Conference. Approved without objection. The Committee will finalize dates, topics and locations for the next meeting.
- b. Legislative Update. Dan Levy indicated that the Juvenile Competency bills were up for hearings on January 20, 2010.

- VIII. Old Business:
There was no old business.
- IX. New Business:
It was requested that we all give Elaine good cell phone numbers so she can send a list of the names and numbers to the Council members.
- X. Good and Welfare:
M. Jon Posner gave an update on the health status of Jerry Surowiec. There was a Motion made and seconded to send him a plant with a \$50.00 spending limit. M. Jon Posner indicated that he would follow up on this.
- XI. Next Meeting = March 16, 2010. There was a Motion made and seconded to cancel the February Meeting due to the fact that it is on the same day as the Shanty Creek Ski Conference. Approved without objection.
- X. Adjournment
A Motion was made by the Chair to Adjourn at 8:50 p.m. There was unanimous support. The Meeting was closed.

Respectfully submitted,

Steve Taratuta
Secretary

Approved with Corrections by the Board at the March 16, 2010 Meeting