

COMMISSION ON CAPITAL CASES
Senator Locke Burt, Chairman
July 2002

Capital Collateral Registry Attorneys:
Efficiency Analysis

Introduction:

In 1998, the Florida Legislature created a registry of experienced attorneys to handle the overflow cases from the three Capital Collateral Regional Counsel (CCRC) offices. Prior to the establishment of the registry, the Capital Collateral Regional Counsel-North, filed a motion in the Florida Supreme Court entitled, *Office of the Capital Collateral Counsel for the Northern Region's Amended Motion for Relief and Amended Motion to Toll and Schedule Operation of Rule 3.852 Including Inventory and Projected Schedule*. In that motion, Capital Collateral Regional Counsel-North summarized their burdensome caseload and optimistically projected the dates when their attorneys would first be assigned to the inmates' cases. The estimated time for CCRC to assign an attorney to a case was three and a half years from the date the inmate's Direct Appeal rehearing was denied. The waiting period of any new case would then, at the very least, be equal to the three and a half year period projected by CCRC. A comparison of the projected appointment date of a collateral attorney to the actual appointment date of a registry attorney shows the substantial time saved in collateral attorney appointment by the creation of the registry and other legislative actions.

As dictated by the *Florida Rules of Criminal Procedure*, an inmate has one year from the denial of his Direct Appeal rehearing to file his first collateral appeal-the 3.850 Motion. Due to an overload of cases, in many instances, collateral attorneys could not file the 3.850 Motion by the one-year deadline. Additionally, an inmate may not file the 3.850 Motion without an attorney, which further delays the collateral appellate process. The deadline for filing an inmate's 3.850 Motion can be projected by using the previously estimated three and a half year appointment time frame for an attorney to a case and adding one year to that date. Comparing the projected filing deadlines to the actual filing dates by the registry attorneys indicates substantial savings in both time and money by the expeditious appointment of registry attorneys as collateral counsel.

The 131 attorneys on the registry have practiced law an average of 17 years and are widely recognized as experts in this difficult area of the law. The Florida Supreme Court recognized the effectiveness of this innovative program in its July 12, 2001 Opinion¹ when it stated, "In recent years, we have found that cases are being resolved more expeditiously, due in large part to the implementation of this Court's requirements for quarterly reports from the chief judges to the Chief Justice on the status of capital postconviction cases, the Court's requirement of mandatory training for judges handling capital cases, the Court's adoption of rule 3.852 ("Capital Postconviction Public Records Production"), and **the development of registry counsel.** (emphasis added)

This analysis examines the impact that the implementation of the registry had on the collateral appellate process in terms of time and money saved. The establishment of the registry made the collateral appellate process more efficient by lifting the burden of a heavy caseload from other collateral attorneys.

¹ No. SC96646, *AMENDMENTS TO FLORIDA RULES OF CRIMINAL PROCEDURE 3.851, 3.852, AND 3.993 AND FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.050*.

Summary of Findings:

Between 1998-2000, the appointment of registry counsel to 32 inmates' cases saved an estimated 131.19 years in litigation and prison time, for a gross savings of \$7,747,294. During 1998-2000, the cost of operating the Commission On Capital Cases and payments to registry attorneys totaled \$1,625,000.

This resulted in a net savings of \$6,122,294 from 1998 to 2000.

The total reduction in litigation and prison time was 131.19 years.

Projections:

Below are three tables that list projections for 32 inmates who were appointed to registry attorneys in 1998, 1999 and 2000.

1998: 72.62 Total Years Saved

Inmate Name	Estimated Date of Collateral Counsel Appointment	Actual Date of Registry Appointment	Years Saved	Estimated Deadline for Collateral Counsel to File a Complete 3.850	Actual Registry Filing of Complete 3.850	Years Saved
Banks	04/14/2001	08/28/1998	2.63	04/14/2002	06/10/1999	2.85
Bonifay	03/05/2000	09/24/1998	1.45	03/05/2001	03/21/2000	0.96
Consalvo	01/17/2001	07/27/1998	2.48	01/17/2002	04/09/1999	2.78
Damren	01/08/2001	09/01/1998	2.36	01/08/2002	11/18/1998	3.14
Davis	07/09/2001	11/12/1998	2.66	07/09/2002	04/29/1999	3.20
Franqui	04/07/2001	08/12/1998	2.65	04/07/2002	01/15/1999	3.23
Hartley	07/31/2000	09/18/1998	1.87	07/31/2001	02/11/2002	-0.53
Jiminez	04/30/2001	08/21/1998	2.69	04/30/2002	02/01/2000	2.24
Jones, M.	09/25/2000	09/01/1998	2.07	09/25/2001	09/17/1998	3.02
Lawrence, G.	02/28/2001	11/05/1998	2.32	02/28/2002	01/19/1999	3.11
Lawrence, M.	10/18/2000	09/17/1998	2.09	10/18/2001	12/20/2000	0.83
Monlyn	07/22/2001	11/18/1998	2.68	07/22/2002	06/25/1999	3.08
Rolling	12/12/2000	08/27/1998	2.30	12/12/2001	11/13/1998	3.08
Wainwright	07/16/2001	12/21/1998	2.57	07/16/2002	05/14/1999	3.18
Wike	03/02/2001	08/28/1998	2.51	03/02/2002	01/08/1999	3.15
			Total Years Saved		Total Years Saved	37.30
			35.32			

1999: 42.01 Total Years Saved

Inmate Name	Estimated Date of Collateral Counsel Appointment	Actual Date of Registry Appointment	Years Saved	Estimated Deadline for Collateral Counsel to File a Complete 3.850	Actual Registry Filing of Complete 3.850	Years Saved
Archer	11/01/1999	08/17/1999	0.21	11/01/2000	02/22/2000	0.69
Blanco	08/25/2001	02/01/1999	2.56	08/25/2002	09/16/1999	2.94
Chandler, O.	06/11/2001	07/27/1999	1.88	06/11/2002	05/30/2000	2.03
Elledge	09/05/2001	03/01/1999	2.52	09/05/2002	09/23/1999	2.95
Gore, D.	09/05/2001	03/09/1999	2.50	09/05/2002	09/30/1999	2.93
Hamilton	07/08/2001	02/18/1999	2.39	07/08/2002	11/08/1999	2.67
Pooler	07/23/2001	02/17/1999	2.43	07/23/2002	09/17/1999	2.85
San Martin	08/23/2001	02/11/1999	2.53	08/23/2002	10/04/1999	2.89
Sliney	03/18/2001	02/23/1999	2.07	03/18/2002	03/31/1999	2.97
			Total years Saved		Total years Saved	22.93
			19.08			

2000: 16.56 Total Years Saved

Inmate Name	Estimated Date of Collateral Counsel Appointment	Actual Date of Registry Appointment	Years Saved	Estimated Deadline for Collateral Counsel to File a Complete 3.850	Actual Registry Filing of Complete 3.850	Years Saved
Brown, Paul Anthony	05/30/2002	02/16/2000	2.28	05/30/2003	11/03/2000	2.57
Cave	09/02/2002	06/05/2000	2.24	09/02/2003	09/27/2000	2.93
Henry, John	08/09/1998	12/13/2000	-2.35	08/09/1999	03/20/2001	-1.61
Howell	08/12/2001	01/02/2000	1.61	08/12/2002	03/28/2000	2.38
Johnson, R.	01/01/2001	02/01/2000	0.92	01/01/2002	03/01/2001	0.84
Mungin	08/08/1999	02/09/2000	-0.51	08/08/2000	07/03/2001	-0.90
Robinson	04/25/2002	10/04/2000	1.56	04/25/2003	02/28/2001	2.15
Thomas, W.	11/15/2000	01/03/2000	0.87	11/15/2001	04/19/2000	1.58
			Total Years Saved		Total Years Saved	9.93
			6.63			

Analyses:

	1998	1999	2000	Total
Years Saved by Registry Appointment	35.32	19.08	6.63	61.03
Years Saved by Registry Filing of 3.850 Motion	37.3	22.93	9.93	70.16
Total	72.62	42.01	16.56	131.19

Based on the above projections:

- In 1998, the creation of the registry saved approximately 35 years (35.32 years) in the process of appointing collateral counsel and approximately 37 years (37.30 years) in the process of filing 3.850 Motions. This resulted in a total savings of 72.62 years.
- In 1999, the appointment of registry counsel saved approximately 19 years (19.08 years) and approximately 23 years (22.93 years) in filing 3.850 Motions. This resulted in a total savings of 42.01 years.
- In 2000, the appointment of registry counsel saved approximately 7 years (6.63 years) and approximately 10 years (9.93 years) in filing 3.850 Motions. This resulted in a total savings of 16.56 years.
- Between the years of 1998 and 2000, the appointment of registry counsel saved approximately 61 years (61.03 years) in the process of appointing collateral counsel and approximately 70 years (70.16 years) in the process of filing 3.850 Motions. This resulted in a total of 131.19 years saved.

Total Reduction in Litigation and Prison Time: 131.19 years

	1998	1999	2000	Total
Estimated CCRC Cost	\$2,178,600	\$1,260,300	\$496,800	\$3,935,700
Estimated DC Cost	\$2,109,901	\$1,220,559	\$481,134	\$3,811,594
Total	\$4,288,501	\$2,480,859	\$977,934	\$7,747,294

Using an estimated CCRC cost of \$30,000 per case, per annum:

(Total years saved x \$30,000)

- In 1998, the appointment of registry counsel and faster 3.850 Motion filings saved approximately \$2,178,600.
- In 1999, the appointment of registry counsel and faster 3.850 Motion filings saved approximately \$1,260,300.
- In 2000, the appointment of registry counsel and faster 3.850 Motion filings saved approximately \$496,800.
- In total, the appointment of registry counsel and faster 3.850 Motion filings saved \$3,935,700 in estimated CCRC costs between 1998-2000.

Using an estimated Department of Corrections housing cost for Florida State Prison of \$29,054 per annum:

(Total years saved x \$29,054)

- In 1998, the appointment of registry counsel and faster 3.850 Motion filings saved approximately \$2,109,901.
- In 1999, the appointment of registry counsel and faster 3.850 Motion filings saved approximately \$1,220,559.
- In 2000, the appointment of registry counsel and faster 3.850 Motion filings saved approximately \$481,134.
- In total, the appointment of registry counsel and faster 3.850 Motion filings saved² \$3,811,594 in estimated Department of Corrections costs between 1998-2000.

Total Gross Savings between 1998-2000: \$7,747,294

(\$3,935,700 in estimated CCRC Costs + \$3,811,594 in estimated DOC Housing Costs)

Total Cost of Operating the Commission On Capital Cases and the Registry between 1998-2000: \$1,625,000

(\$591,000 in Commission Costs + \$1,034,000 in Registry costs)

Total Net Savings between 1998-2000: \$6,122,294

(\$7,747,294 in Gross Savings - \$1,625,000 in Commission/Registry Costs)

Conclusion:

The creation of the registry by the Commission on Capital Cases saves time and ultimately money in the collateral appellate process because its attorneys are appointed faster and hence motions are filed more quickly.

² Total prison savings only realized upon final outcome of an inmate's case if the sentence is carried out or the inmate is released.

COMMISSION ON CAPITAL CASES
Senator Locke Burt, Chairman
September 2002

Capital Collateral Regional Counsel:
Efficiency Analysis

Introduction:

In 1997, the Florida Legislature enacted sweeping reforms in the death penalty, including the following changes: (1) increased funding for collateral representation, (2) the establishment of a records repository to reduce records litigation, (3) the immediate division of the Capital Collateral Representative into three regional offices, and (4) the creation of a registry of attorneys to handle the overflow and conflict cases from the CCRCs.

In December of 1997, before implementation of these death penalty reforms, the office of Capital Collateral Regional Counsel-North (CCRC-N) filed a motion in the Florida Supreme Court entitled, *Office of the Capital Collateral Counsel for the Northern Region's Amended Motion for Relief and Amended Motion to Toll and Schedule Operation of Rule 3.852 Including Inventory and Projected Schedule*. In that motion, CCRC-N summarized its burdensome caseload and optimistically projected the dates when their attorneys would first be assigned to the inmates' cases. The estimated time for the CCRC to assign an attorney to the newest case was 3 ½ years from the date the inmate's Direct Appeal rehearing was denied. The waiting period of any other new case would then, at the very least, be equal to the 3 ½ year period projected by CCRC.

As dictated by the *Florida Rules of Criminal Procedure*, an inmate has one year from the denial of his Direct Appeal rehearing to file his first collateral appeal: the 3.850 Motion. Due to an overload of cases, in many instances, collateral attorneys could not file the 3.850 Motion by the one-year deadline. Additionally, an inmate may not file the 3.850 Motion without an attorney, which further delays the collateral appellate process. The deadline for filing an inmate's 3.850 Motion can be projected by using the previously estimated 3 ½ year appointment time frame for an attorney to a case and adding one year to that date.

A comparison of the projected appointment date of a CCRC attorney to the actual appointment date of a CCRC attorney indicated that CCRC is assigning attorneys faster than their previous projections, demonstrating that CCRC is working more efficiently and effectively than before the aforementioned reforms. Comparing the projected 3.850 filing deadlines to the actual filing dates by the CCRC attorneys indicated substantial savings in both time and money by the expeditious filing of 3.850 Motions.

Additionally, an examination of the CCRCs' successes, the cases in which relief of some type or another was granted is another indication of the effectiveness of the CCRC offices. Since 1997, the offices of the Capital Collateral Regional Counsel have reported 39 successes. (See Attached Table)

This analysis examines the efficiency and success of the offices of the Capital Collateral Regional Counsel since the attainment of increased funding, the establishment of a records repository, the creation of the registry and the division of the Capital Collateral Representative into three regional offices. The information analyzed showed that the CCRC offices are working faster than their projected estimations, saving both time and money in the capital collateral appellate process.

Summary of Findings:

Following the 1997 death penalty reforms, the offices of the Capital Collateral Regional Counsel began working more efficiently, appointing counsel and filing 3.850 Motions faster than previous projection estimates.

This resulted in approximately **88 (87.5) years saved in litigation and prison time and an estimated \$5,167,225 in CCRC operation and Department of Correction housing costs.**

Projections:

Below is a table comparing the 14 cases handled by CCRC since the implementation of the 1997 death penalty reforms.

Inmate Name	Estimated Appointment of CCRC Counsel	Actual Appointment of CCRC Counsel	Difference in Years	Estimated 3.850 Filing Date	Actual 3.850 Filing Date	Difference in Years
Alston, Pressley	06/17/2001	06/14/1999	2.01	06/17/2002	11/05/1999	2.62
Foster, Kevin	07/22/2004	07/10/2001	3.04	07/22/2005	09/27/2001	3.82
Guzman, James	06/15/2002	05/02/1999	3.12	06/15/2003	03/27/2000	3.22
Jennings, Brandy	07/25/2002	12/01/1999	2.65	07/25/2003	03/20/2000	3.35
Jones, David	07/12/2003	06/12/2001	2.08	07/12/2004	06/12/2001	3.08
Knight, Thomas	09/11/2002	11/09/1999	2.84	09/11/2003	11/07/2000	2.84
Lukehart, Andrew	07/23/2004	07/18/2001	3.02	07/23/2005	09/27/2001	3.82
Mansfield, Scott	07/18/2004	05/23/2001	3.16	07/18/2005	06/15/2001	4.09
McDonald, Meryl	03/17/2003	01/11/2000	3.18	03/17/2004	12/15/2000	3.25
Miller, David	04/24/2004	05/09/2001	2.96	04/24/2005	09/27/2001	3.58
Nelson, Joshua	03/30/2003	01/04/2001	2.23	03/30/2004	01/05/2001	3.23
Reese, John	04/11/2004	06/18/2001	2.82	04/11/2005	09/27/2001	3.54
Rogers, Glen	10/24/2004	08/14/2001	3.20	10/24/2005	09/28/2001	4.07
Sexton, Eddie	06/21/2004	01/22/2001	3.41	06/21/2005	03/21/2002	3.25
			Years Saved			39.72
					Years Saved	47.78

Analysis:

- Since the 1997 death penalty reforms, the CCRCs appointed attorneys approximately 40 (39.72) years faster than their projections and filed 3.850 Motions approximately 48 (47.78) years faster than estimations, **saving a total of 87.5 years in litigation and prison time.**
- These findings demonstrate that CCRC has been working more efficiently since the reforms.

Using an estimated CCRC cost of \$30,000 per case, per annum:

(Total years saved x \$30,000)

- The increased efficiency of the CCRC offices yielded a savings of \$2,625,000 (87.5 years x \$30,000) in estimated CCRC operation costs.

Using an estimated Department of Corrections housing cost for Florida State Prison of \$29,054 per annum:

(Total years saved x \$29,054)

- The increased efficiency of the CCRC offices yielded a savings of \$2,542,225 (87.5 years x \$29,054) in Department of Corrections housing costs.³

In total, the increased efficiency of the CCRC offices since the 1997 reforms has saved an estimated \$5,167,225 and 87.5 years in litigation.

Conclusion:

Following the legislative reforms in 1997, the offices of Capital Collateral Regional Counsel began to work more efficiently, resulting in substantial time and money saved in the capital collateral appellate process.

³ Total prison savings only realized upon final outcome of an inmate's case if the sentence is carried out or the inmate is released.

CCRC Successes	# of Cases
New Trial Granted	3
New Penalty Phase Granted	11
Remanded for Evidentiary Hearing	16
Stays Granted	2
Relief Granted by FSC (quo warranto)	1
Clients Released	1
Clients Exonerated	1
Clients Sentenced to Life	4
	39 Successes

New Trial Granted	Barry Hoffman
	Rudolph Holton
	Anna Cardona
New Penalty Phase Granted	Alfonso Green
	Askari Muhammed
	Donald Duncan
	Edward Ragsdale
	Gregory Mills
	Henry Davis
	Jimmie Coney
	Kenny Stewart
	Lawrence Lewis
	Rickey Roberts
	Wayne Thompkins
Remanded for Evidentiary Hearing	Charlie Thompson
	David Cook
	Guillermo Arbelaez
	Ian Lightbourne
	James Floyd
	Joe Nixon
	John Freeman
	Kostantinos Fotopoulos
	Louis Gaskin
	Manuel Valle
	Michael Rivera
	Richard Randolph
	Robert Patton
	Robert Peede
	William Happ
	William Reaves
Stays Granted	Linroy Bottoson
	Amos Lee King
Relief Granted by FSC (quo warranto)	Freddie Lee Hall
Clients Released	Juan Melendez
Clients Exonerated	Frank Lee Smith
Clients Sentenced to Life	David Young
	Mauricia Beltran-Lopez
	Raleigh Porter
	Raymond Thompson