

How to Get Your DNA Expert Funded by the Court

A practical guide for South Carolina defense attorneys

By Paul F. Meeh, Forensic DNA Consultant, (803) 312-5504, paulfmeeh@gmail.com

In many criminal cases, DNA evidence is the centerpiece of the prosecution, and the part of the case the defense understands least. An independent DNA expert can find limitations, alternative explanations, and reliability problems in the state's analysis. In South Carolina, indigent defendants have a constitutional and statutory right to state-funded expert assistance. Here is how to secure it.

1. Know the legal basis.

Ake v. Oklahoma, 470 U.S. 68 (1985) recognized a due-process right to access psychiatric assistance when an indigent defendant makes the required showing that sanity will be a significant factor at trial. For expert services in South Carolina, S.C. Code § 17-3-50(B) provides that, upon an ex parte finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, the court shall authorize counsel to obtain those services and order payment of fees and expenses up to \$500. Under subsection (C), payment above that limit requires a written order with specific findings that the additional compensation is necessary to ensure effective assistance of counsel and that the services were reasonably and necessarily incurred.

2. Get the funding order BEFORE the expert starts.

This is the rule that matters most: the court must authorize funding before the expert is hired. If prior written approval is not obtained, no fees will be paid, no exceptions. Start the funding process as soon as you decide you need DNA review, and tell your expert the engagement begins when the order is signed.

3. File an ex parte motion and proposed order.

File an ex parte motion with a proposed order (or a proposed order signed "I So Move"), and ask that it be filed under seal to protect defense strategy. The motion should include: the expert's name and the type of expert retained; the expert's background, education, and experience (attach the CV); a description of the work to be performed; the requested hourly rate and the estimated total cost; and an explanation of why the services are reasonable and necessary, and why the request exceeds the \$500 statutory cap.

4. Get your expert's materials early.

The motion requires the expert's credentials and rate up front, so contact your expert before you file. A good expert will get you a CV and rate sheet the same day. (Need one? Contact Paul F. Meeh, CV and rate sheet provided same-day for your funding motion: (803) 312-5504, paulfmeeh@gmail.com.)

5. What the order should say.

Ask the court to include: the authorized hourly rate and total amount; a finding that the funding is reasonable and necessary; a requirement that counsel seek prior court approval before exceeding the authorized amount; and direction to submit vouchers under SCCID's Voucher Payment Policy.

6. Upload the signed order within 15 days.

Counsel must upload a copy of the signed funding order through the SCCID website within 15 days of signature. Calendar it.

7. How the expert invoices.

The expert bills in tenths of an hour, with the date, task description, and time for each task, at least monthly. SCCID pays through the defender's office. Keep the initial authorization modest, around \$3,000 (roughly 20 hours) fits SCCID's typical patterns, and seek a supplemental order if the case needs more.

8. Questions?

Questions about vouchers or payment go to the SCCID voucher payment office. SCCID publishes official drafting guidelines and a CLE deck on requesting experts at sccid.sc.gov.

The guides on this site are general information about South Carolina procedure, not legal advice.