

IN THE XXXX DISTRICT COURT  
PARISH OF XXXXXXXXXX  
STATE OF LOUISIANA

|                     |   |                         |
|---------------------|---|-------------------------|
| _____               | ) |                         |
|                     | ) |                         |
| STATE OF LOUISIANA, | ) |                         |
|                     | ) |                         |
| Plaintiff,          | ) |                         |
|                     | ) | No. XXX-XXX             |
| v.                  | ) | Division X              |
|                     | ) | Hon. [Judge], Presiding |
| [CLIENT]            | ) |                         |
|                     | ) |                         |
| Defendant.          | ) |                         |
|                     | ) |                         |
| _____               | ) |                         |

FILED: \_\_\_\_\_

**MOTION FOR PERMISSION TO PROCEED EX PARTE ON APPLICATION FOR INVESTIGATIVE FUNDING**

COMES NOW, [CLIENT], by counsel, and respectfully moves this Court pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article 1, Sections 2, 3, 5, 13, 14, 16, 17, 20, 22, & 24 of the Louisiana Constitution of 1974, to authorize the defense to file motions for funds for a complete defense.

In support, counsel states:

1. Mr. [CLIENT] is presently charged with XXXXXXXXX.
2. Mr. Snyder is indigent and XXXXXX, a private attorney, was appointed to represent [CLIENT] and serve as his counsel in the case.
3. Counsel has performed over XXX hours of work on this case between HER appointment and the present date. Undersigned counsel is a solo practitioner. [Details here about the nature of the attorney’s practice, i.e., the area of law, how your practice generates revenue] Counsel does not have the resources to represent XXXXX for free and certainly does not have the resources or funds to hire an investigator to work for free.
4. The Louisiana Supreme Court held that a defendant “is entitled to make an initial ex parte application with the trial court.” State v. Touchet, 642 So. 2d 1213, 1219 (La. 1994).
5. Ex parte proceedings are necessary to protect confidential attorney-client

communications and attorney work-product material which must be disclosed to make a showing of need for the requested assistance. State v. Touchet, 642 So. 2d 1213, 1221 (La. 1994). If counsel is not allowed to proceed ex parte, [CLIENT] will be forced either to forgo an application for assistance or prematurely reveal matters no competent attorney would allow him to disclose. An ex parte procedure obviates the need for such an untenable choice.

6. The due process clause mandates that an impoverished defendant be afforded funds necessary to present a complete defense. Ake v. Oklahoma, 470 U.S. 68, 75, 105 S. Ct. 1087, 1091-1092, 84 L. Ed. 2d 53 (1985) (the Constitution requires that the state provide access to expert assistance if the defendant cannot otherwise afford one); see also State v. Touchet, 93-2839 (La. 9/6/94); 642 So. 2d 1213, 1215 (The state's responsibility to provide an indigent with effective assistance of counsel includes the responsibility to furnish that counsel with the tools necessary to marshal that defense); State v. Craig, 637 So. 2d 437, 446-447 (La.1994) (upholding a trial court decision ordering payment for the services of an investigator, a psychologist, and a mitigation expert); State v. Carmouche, 527 So. 2d 307 (La. 1988) (ordering the trial court to grant defendant's request for experts in fingerprint analysis and serology); State v. Madison, 345 So. 2d 485 (La.1977) (ordering expert investigative assistance necessary to an indigent's defense).

7. Failure to allow ex parte applications for assistance would deprive [CLIENT] of the benefits that non-indigent defendant's would receive. In this instance [CLIENT] would be the victim of discrimination which results solely from his indigence, and would therefore be denied his rights to a fair trial, to effective assistance of counsel, to compulsory process of witnesses, to equal protection, to due process, and to protection from cruel and unusual punishment, guaranteed to him by the Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

WHEREFORE the defense moves this Court for leave to proceed ex parte, with a sealed record, in his applications for the funds necessary to present a complete defense.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Respectfully Submitted,

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ATTORNEY NAME  
La. Bar No. XXXXXXXX  
ADDRESS  
XXXXXXXX, LA 70XXX

*Counsel for [CLIENT]*

**Certificate of Service**

I hereby certify that I have caused to be served by mail a copy of the foregoing document upon the Office of the District Attorney on this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_

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PARISH OF XXXXXXXXXX

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|                     | ) |                         |
| Defendant.          | ) |                         |
|                     | ) |                         |
| _____               | ) |                         |

FILED: \_\_\_\_\_

**ORDER**

The foregoing *Motion for Permission To Proceed Ex Parte on Application for Investigative Funding* being considered, IT IS HEREBY ORDERED that:

It Is Hereby Ordered That the State of Louisiana Show Cause why Defendant’s Motion should not be granted on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at 9:30 a.m.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015. XXXXXX, Louisiana.

\_\_\_\_\_  
HON. XXXXXXXXXXXX, JUDGE, SEC. X  
XXXXXXXXX DISTRICT COURT

IN THE XXXX DISTRICT COURT  
PARISH OF XXXXXXXXXX  
STATE OF LOUISIANA

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| [CLIENT]            | ) |                         |
|                     | ) |                         |
| Defendant.          | ) |                         |
|                     | ) |                         |
| _____               | ) |                         |

FILED: \_\_\_\_\_

**ORDER**

The foregoing *Motion for Permission To Proceed Ex Parte on Application for Investigative Funding* being considered,

IT IS HEREBY ORDERED that the foregoing Motion is GRANTED.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2015. New Orleans, Louisiana.

\_\_\_\_\_  
HON. XXXXXXXXXX, JUDGE, SEC. X  
XXXXXXX DISTRICT COURT