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03-15-000428-cv
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THIRD COURT OF APPEALS
AUSTIN, TEXAS
11/13/2015 11:09:51 AM
JEFFREY D. KYLE
CLERK

NO. 03-15-00428-CV

IN THE COURT OF APPEALS
FOR THE THIRD DISTRICT OF TEXAS
AT AUSTIN

FILED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS
11/13/2015 11:09:51 AM
JEFFREY D. KYLE
Clerk

BERNARD MORELLO,
Appellant,

v.

THE STATE OF TEXAS,
Appellee.

On Appeal from Cause No. D-1-GV-06-000627
353RD Judicial District Court, Austin, Texas
The Honorable Rhonda Hurley

JURANEK LAW FIRM, PLLC, AND JAMES JURANEK'S PARTIALLY UNOPPOSED MOTION TO WITHDRAW AS COUNSEL FOR BERNARD MORELLO AND TO SUBSITTUTE LAPEZE & JOHNS, PLLC AS LEAD COUNSEL

TO THE HONORABLE COURT OF APPEALS:

The Juranek Law Firm, PLLC and James Juranek (collectively "Movants") file this partially unopposed motion to withdraw as lead counsel for Appellant Bernard Morello, and in support thereof would respectfully show the Court the following:

1. Basis for motion. Movants file this Motion to withdraw from representation of this appeal under Texas Rule of Appellate Procedure 6.5.

2. Withdrawal with Substitution of Counsel. This Motion is for withdrawal with substitution of counsel. Lapeze & Johns, PLLC, and Keith Lapeze,

current co-counsel for Appellant, will continue acting as counsel for Appellant.

3. Good cause for withdrawal. The rules governing withdrawal require a showing of "good cause," and courts have looked to the grounds identified in Texas Disciplinary Rule 1.15 for the bases for withdrawal. *See In re A.R.*, 236 S.W.3d 460, 474 (Tex. App.—Dallas 2007, no pet.). Subsection (b) of Disciplinary Rule 1.15 lists specific instances under which an attorney may seek to withdraw. Included among those instances are where "the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services, including an obligation to pay the lawyer's fee as agreed, and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled." TEX. DISCIPLINARY R. PROF'L CONDUCT, § 1.15(b)(5), *reprinted in* TEX. GOV'T CODE ANN, tit. 2, subtit. G, app. A (Vernon 1998).

Movants undertook representation of Appellant on good faith and without requiring payment of a retainer; however, Movants' fees and expenses have yet to be paid. Movants spoke with Appellant approximately 3 weeks prior to filing this motion and advised that unless payment was made, Movants would be forced to withdraw from the case. To date, Movants' have not been paid their legal fees or expenses incurred to date on this appeal. Accordingly, Movants submit that good cause exists to permit their withdrawal as counsel in this matter. *See In re Daniels*, 138 S.W.3d 31, 35 (Tex. App.—San Antonio 2004, orig. proceeding) (finding that counsel established good cause to withdraw where client failed to pay outstanding legal fees).

4. Client Notification. Appellant has been notified via first class mail, certified mail, and hand delivery of the right to object to the relief sought in this motion.

Such notice has been sent to the following last known address of Appellant: Bernard J. Morello, 5100 San Felipe, Unit 78E, Houston, TX 77056.

Respectfully submitted,

JURANEK LAW FIRM, PLLC

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CERTIFICATE OF CONFERENCE

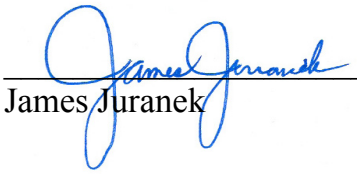
The undersigned contact Appellant's counsel (Craig Pritzlaff) about the contents of this motion and the relief requested. Mr. Pritzlaff advised that Appellee is unopposed to the relief sought. Appellant has not indicated whether he opposes Movants' withdrawal in this matter.

James Juranek

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to Appellees' Counsel via the electronic filing manager pursuant to Texas Rule of Appellate Procedure 9.2, on this 13th day of November, 2015.

Lead Counsel for Appellees
Craig J. Pritzlaff
Assistant Attorney General
P.O. Box 12548, MC-066
Austin, TX 78711
512.320.0911 (Fax)



James Juranek