IN THE COURT OF APPEALS OF MARYLAND

ADMINISTRATIVE ORDER ESTABLISHING APPOINTMENT PROCESS FOR
ATTORNEYS REPRESENTING INDIGENT DEFENDANTS AT INITIAL
APPEARANCES BEFORE DISTRICT COURT COMMISSIONERS

WHEREAS, On September 25, 2013, the Court of Appeals filed its opinion in *DeWolfe v. Richmond* ("*Richmond*"), which held that indigent criminal defendants have the constitutional right to representation by counsel at initial appearances before District Court Commissioners, and the Court's mandate issued on October 17, 2013; and

WHEREAS, On October 15, 2013, the Standing Committee on Rules of Practice and Procedure submitted its 181st Report to the Court of Appeals, which contained proposed rules to implement the *Richmond* decision, and which the Committee recommended be adopted on an emergency basis; and

WHEREAS, On November 6, 2013, the Court, after making certain amendments, adopted the proposed rules changes in the 181st Report, but provided that they would not take effect until the issuance of a further Order of the Court because of uncertainties regarding the possible need for further action in the trial court; and

WHEREAS, Among the rules changes in the 181st Report is an amendment to Maryland Rule 4-216, namely subsection (e)(1)(A)(iii), which establishes the process by which the District Court appoints attorneys to represent indigent defendants at initial appearances before District Court Commissioners, should the Office of the Public Defender decline representation of any eligible defendant; and

WHEREAS, The process set forth in revised Rule 4-216(e)(1)(A)(iii), when it becomes effective, is integral to the effectuation of the constitutional right to counsel and,

therefore, advance preparation for its full implementation should be established as soon as possible; and

WHEREAS, Because the Court is not ready to make all of the rules changes in the 181st Report immediately effective, it is appropriate to issue an Administrative Order, consistent with Rule 4-216(e)(1)(A)(iii), commencing the alternate private attorney appointment process for representation of eligible defendants in the District Court so that the rules changes may be implemented timely upon declaration of their effective date.

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 26th day of November, 2013, effective immediately:

1. Appointment Process.   The Chief Judge of the District Court shall direct the District Administrative Judge in each district (i) with the assistance of local bar associations and other interested groups, to solicit qualified private attorneys in the district who would be willing to accept an appointment by the Court to represent eligible indigent defendants at initial appearances before commissioners in the district, the fees and expenses for such representation to be governed by the schedule used by the Public Defender for panel attorneys and to be charged against the State of Maryland, (ii) to compile a list of those attorneys who agree to serve on a standby basis, and (iii) to develop an efficient and effective procedure for notifying such attorneys of an actual appointment.

2.   Rescission of Order. Subject to any further Administrative Order, this Order will

be rescinded on the effective date of the rules changes in the 181st Report.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge of the Court of Appeals

Filed: November 26, 2013

/s/ Bessie M. Decker
Bessie M. Decker
        Clerk
Court of Appeals of Maryland