

SUPREME COURT OF LOUISIANA

NO. 03-KA-0897

STATE OF LOUISIANA

VERSUS

GREGORY C. BROWN

ON APPLICATION FOR REHEARING

JOHNSON, J., would deny the rehearing,

Although this Court should have cited *State v. Citizen*, 04-1841 (La. 4/1/05), 898 So.2d 325, which was released eleven days earlier, rather than *State v. Wigley*, 624 So.2d 425 (La. 1993) to resolve the issue of compensation for defense counsel, the result remains unchanged. Defendant, Brown, was provided the basic tools for an adequate defense. With regard to expert fees, Brown did not claim that he was denied funding, but rather that funding was not made available “soon enough” during the pretrial stages, and therefore, the trial court should have stayed the proceedings until funding was made available. However, the record indicated that the trial court authorized the defense \$ 15, 000 to secure expert services, and thus, defendant failed to demonstrate prejudice in these respects. Therefore, under the facts present in *Brown*, a stay of the proceedings was not necessary, as funds were made available.

Further, as to compensation of defense counsel, the record as a whole was silent as to exactly how much and from what sources defendant’s attorneys were ultimately compensated. Thus, on the scant showing made, defense counsel failed to demonstrate that the funding issue raised pretrial remained unaddressed. Thus, even if *Citizen* had been applied, Brown’s attorneys would have nevertheless been unable to stay the proceedings for lack of funding.