

**SUPREME COURT OF LOUISIANA**

**No. 2003-KA-0897**

**STATE OF LOUISIANA**

**VERSUS**

**GREGORY BROWN**

**ON APPLICATION FOR REHEARING**

**REHEARING GRANTED IN PART; DENIED IN PART**

We grant rehearing in part for the limited purpose of clarifying our statement regarding *State v. Wigley*, 624 So.2d 425 (La. 1993). In the original opinion in this case, we commented that we would not extend *Wigley* to require delay of a trial on the merits in order to resolve the collateral issue of compensation for defense counsel. *State v. Brown*, 03-0897, p. 42 (La. 4/12/05). That statement, viewed in isolation, appears to conflict with our holding just eleven days earlier in *State v. Citizen*, 04-1841 (La. 4/1/05). In *Citizen*, reviewing an interlocutory ruling made prior to trial, we held that, upon motion of the defendant prior to trial, the judge may prohibit the State from going forward with the prosecution until he or she determines that appropriate funding to cover counsel’s anticipated expenses and overhead is likely to be available. What we should have made more clear in our original opinion in the instant case is that our holding in *Citizen* had no direct relevance to our resolution of the defendant’s claims that a lack of funding denied him his due process and equal protection rights.

In the instant case, as summarized in the original opinion at pages 37-42, the defendant in advance of trial filed various motions seeking reimbursement for defense costs and a stay of all proceedings. The trial court held a hearing on the funding issue and denied the defendant’s motions. But prior to trial, the trial court did authorize

funds to the defense totaling \$15,000.00 for expert witness and investigation fees. Unlike in *Citizen*, however, the defendant here did not seek supervisory writs from the trial court's pre-trial rulings, was allocated funds, and proceeded to trial. As more fully set forth in our original opinion, the defendant, now post-trial, has failed to establish any prejudice to his defense as a result of an alleged lack of funding then available to reimburse his counsel for expenses and overhead.

In all other respects, the defendant's rehearing application is denied.