

IN THE SUPREME COURT OF THE STATE OF ARIZONA

FILED
APR - 9 1993
NOEL K. DESSAINT
CLERK SUPREME COURT
BY *llk*

In the Matter of:)
)
GUIDELINES FOR COMPENSATION OF)
ATTORNEYS APPOINTED TO REPRESENT)
INDIGENT PERSONS IN CRIMINAL)
APPEALS IN THE COURT OF APPEALS)
AND SUPREME COURT)
_____)

ADMINISTRATIVE ORDER
No. 93-18

Pursuant to this Court's administrative determination on December 1, 1987, regarding compensation for appointed counsel,

IT IS ORDERED formally amending paragraph 3 of this Court's Administrative Order dated September 1, 1982, (copy attached) by increasing the maximum rate of compensation for appointed counsel to \$55 per hour. The minimum rate of \$30 per hour is retained.

DATED this 9th day of April, 1993.

STANLEY G. FELDMAN
Chief Justice

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of)
)
GUIDELINES FOR COMPENSATION)
OF ATTORNEYS APPOINTED TO)
REPRESENT INDIGENT PERSONS)
IN CRIMINAL APPEALS IN THE)
COURT OF APPEALS AND SUPREME)
COURT)
_____)

SEP 1 1982

Alcock
CLERK SUPREME COURT

ADMINISTRATIVE
ORDER

It appearing to this Court that guidelines should be issued regarding the compensation of lawyers appointed to represent indigent persons in criminal appeals in the Court of Appeals and Supreme Court, now therefore it is

ORDERED that the following guidelines be in effect:

1. An attorney appointed to represent an indigent person in a criminal appeal shall possess criminal appellate experience commensurate with the responsibilities of representation in the case.

2. In exceptional circumstances, appointed counsel may associate other counsel with specialized skills for individual phases of the preparation of the appeal, provided that appointed counsel assumes the major responsibility and performs the major portion of the work. The motion for compensation may include the time and expenses of associated counsel, provided that appropriate explanation and designation are made therein.

3. The rate of compensation of appointed counsel shall range from \$30/hour to \$45/hour, depending upon the experience of counsel and the quality of counsel's work in the appeal.

4. The rate of compensation shall be multiplied by the number of allowable hours to determine the reasonable fee. Ordinarily the court will accept the hourly submission of counsel, but it may in its discretion independently evaluate such submission and reduce it, where the hours submitted appear disproportionate to the work involved. In such cases, the court will arrive at the allowable time based upon an estimate of the time an experienced criminal appellate attorney might have devoted to the appeal.

5. Appointed counsel shall record the number of hours devoted to each category of service performed in preparation of the appeal, including but not limited to the following:

- (a) Reading the record on appeal;
- (b) Conference or correspondence with appellant or other counsel;
- (c) Motions and applications;
- (d) Research, drafting and correction of briefs;
- (e) Preparation for and attendance at oral argument;
- (f) Travel time, where travel was necessary;
- (g) Post-decision petitions and motions; and
- (h) Other services, designated with particularity.

6. The motion for compensation shall state the year of counsel's admission to the bar, a general description of his or her criminal trial and appellate experience, and any other factors considered relevant to the determination of a reasonable

fee. Counsel shall also attach and submit an affidavit containing an itemized statement of hours, indicating the following:

- (a) The date on which the service was performed.
- (b) The time spent on the service.
- (c) The nature of the service.

7. In the court's discretion, extraordinary circumstances may be considered in the allowance of compensation. When submitting a claim for extraordinary compensation, counsel shall explain in detail the grounds therefor.

8. The court shall allow reimbursement of expenses of counsel, limited to out-of-pocket expenses which are actually and necessarily incurred in the course of the appeal. Expense claims shall be itemized. The following categories of expenses shall normally be regarded as necessary:

- (a) Photocopying or other duplication of briefs.
- (b) Postage, document delivery charges and long distance telephone calls to the client, opposing counsel or the court.
- (c) Travel expenses where necessarily incurred, although the cost of meals and lodging shall not ordinarily be allowed.
- (d) Other expenses where necessarily incurred and properly itemized.

If expenses have been incurred for use of law clerks or paralegals, these shall be claimed as expenses and not as fees. Appropriate explanation shall be made therefor.

9. Motions for compensation shall be filed upon completion of the appeal. Motions for payment of interim fees during pendency of the appeal shall not be granted except in extraordinary circumstances.

10. This Court deems the attached example of a "Motion for Compensation of Appointed Counsel" to be in acceptable form for filing.

Dated this 1st day of September, 1982.

~~WILLIAM A. HOLOHAN, CHIEF JUSTICE~~

~~FRANK X. GORDON, JR., VICE CHIEF JUSTICE~~

~~JACK D. H. HAYS, JUSTICE~~

~~JAMES DUKE CAMERON, JUSTICE~~

~~STANLEY G. FELDMAN, JUSTICE~~

IN THE SUPREME COURT OF THE STATE OF ARIZONA

STATE OF ARIZONA,)
)
 Appellee,) Supreme Court
) No.
 vs.)
) County Superior Court
) No.
 JOHN DOE,)
)
 Appellant.) MOTION FOR COMPENSATION OF
) APPOINTED COUNSEL
 _____)

Counsel for the Appellant, JOHN DOE, moves this Court to order _____ County to pay the reasonable attorneys' fees and costs incurred in representing the Appellant on appeal. This motion is based upon the accompanying affidavit.

DATED this ____ day of _____, 19__.

JOE SMITH
[Address]

Copy of the foregoing mailed,
postage prepaid, this ____ day
of _____, 19__, to

, Attorney General
, Assistant Attorney General, Department of Law
1275 West Washington, 2nd Floor, Phoenix, Arizona 85007

JOE SMITH

IN THE SUPREME COURT OF THE STATE OF ARIZONA

STATE OF ARIZONA,)	
)	Supreme Court
Appellee,)	No.
)	
vs.)	County Superior Court
)	No.
JOHN DOE,)	
)	AFFIDAVIT ACCOMPANYING MOTION
Appellant.)	FOR COMPENSATION

STATE OF ARIZONA)
) ss.
 County of)

JOE SMITH, being first sworn, says as follows:

I was appointed by the Superior Court of County, State of Arizona, to represent JOHN DOE on appeal in the Supreme Court of the State of Arizona, Supreme Court Number . The preparation of the appeal required:

See Exhibit "A" attached hereto and incorporated herein by specific reference.

In addition, counsel incurred the following expenses and costs in preparation of the appeal:

See Exhibit "B" attached hereto and incorporated herein by specific reference.

I was admitted to the practice of law in , and have been practicing in Arizona since that time. Since 19 I have handled: [Set forth criminal trial and appeal experience, including homicides and death penalty appeals, where pertinent].

In addition, the following circumstances may be relevant to a determination of the fee for this appeal: [Set forth relevant circumstances, if any.]

JOE SMITH
[Address]
Attorney for Appellant
JOHN DOE

SUBSCRIBED AND SWORN to before me this ____ day of _____, 19__.

Notary Public

My Commission expires:

BILLING re State v. Doe (Appeal)

<u>Date</u>	<u>Description</u>	<u>Hours</u>
<u>1980</u>		
5-20	Review of notice of appeal	.1
5-21	Review correspondence from John Doe	.2
5-23	Review record on appeal	1.0
5-24	Cull trial file in preparation for appeal	1.5
5-27	Letter to John Doe re status of appeal	.4
5-28	Review of Supreme Court order re filing extension	.1
6-9	Review of order consolidating appeals	.1
6-11	Review of order re extension of time for filing	.2
10-9	Review of order denying motion for rehearing (Rule 32); dictation of petition for review	.2
10-15	Filing petition for review	.1
10-17	Review of correspondence from Clerk of Superior Court re petition for review	.1
10-26	Dictation of motion to consolidate petition for review with pending appeal; research	.4
10-27	Preparation of motion for filing	.2
10-31	Review of order consolidating petition with appeal	.2
11-12	Telephone conference with John Doe	.3
11-18	Review of order granting extension of time for filing	.1
TOTAL HOURS 1980		<u>5.2</u>
<u>1981</u>		
1-9	Review of notice of completion of record; preliminary work on transcript organization	3.5
	Dictation of motion for extension of time and page limitations	.3
1-15	Review of order granting extension; research	.3
1-26	Review of letter from John Doe	.2
1-28	Review of trial transcripts - preliminary notes	3.5
1-30	Review of transcripts - notes	4.5
2-2	Review of transcripts - notes	2.6
2-3	Review of transcripts - notes	4.0
2-5	Research	1.2
2-10	Draft of statement of the case; review draft	1.4
2-11	Dictation of draft (portion); review	2.3
2-12	Dictation and revisions	7.5
2-22	Research; drafting argument portion of brief	4.0
2-23	Research	2.2
2-24	Dictation; drafting and revisions of arguments	8.0
2-26	Final revisions	2.5
3-3	Dictation of letter to John Doe enclosing copy of brief	.1

EXHIBIT "A"

<u>Date</u>	<u>Description</u>	<u>Hours</u>
<u>1981 (cont)</u>		
5-2	Review of answering brief	3.0
5-12	Dictation of motion for extension of time to file reply	.2
5-14	Research	2.5
5-19	Research	1.2
5-20	File review; drafting reply	6.0
5-21	Review and revision of reply; filing	2.5
	Dictation of request for oral argument	.2
5-27	Review of order granting oral argument	.1
8-6	Review correspondence from John Doe; dictate letter	.4
8-24	Telephone conference with Mrs. John Doe	.3
9-11	Review of letter from John Doe	.6
9-14	Research	1.0
10-19	Research; memos on hypnosis issue and prosecutorial misconduct	7.0
10-20	Research; file review in preparation for argument	3.0
	Research; death penalty memo	2.0
	Research	.5
10-22	Research; dictation of letter	3.5
10-23	Oral argument	1.0
	Travel time from office to Phoenix	8.0
TOTAL HOURS 1981		<u>91.1</u>
<u>1982</u>		
4-13	Telephone conference with Supreme Court	.2
4-14	Review of opinion	1.5
	Telephone conference with John Doe	.2
4-26	Review letter from John Doe	.3
4-30	Review of State's motion for rehearing	1.2
5-1	Research; response to motion	2.0
TOTAL HOURS 1982		<u>5.4</u>
TOTAL HOURS May 1980 to May 1982 -		<u>101.7</u>

EXHIBIT "A"

Long distance calls	\$ 47.97
Reproduction costs	344.84
Delivery of documents from office to Phoenix for filing with Supreme Court	8.75
Cost for binding Appellant's Opening Brief	3.00
Postage	<u>1.08</u>
TOTAL COSTS AND EXPENDITURES	<u><u>\$405.64</u></u>