

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA
PLAINTIFF,

V.

No. -CR

DEFENDANT,

DEFENDANT

MEMORANDUM OPINION AND ORDER

This Court has previously:

1. appointed two lawyers (_____ and _____) rather than one to represent [defendant], one of two defendants against whom the United States seeks the death penalty under 21 U.S.C. §848(e) (1) (A) and who is financially unable to pay for such legal representation himself; and
2. approved an increased rate of compensation for those lawyers as authorized by the Criminal Justice Act (“CJA”)- - see 746 F.Supp. 1352 (N.D. Ill. 1990).

Because of (a) the unexpected delay in the commencement of [defendant’s] trial (the result of a recent severance of his trial from that of codefendant _____, whose trial is now in progress) , (b) the uncertainty in the time for commencement of [defendant’s] own trial and (c) the expected length of [defendant’s] trial when it does begin, it is anticipated that a hardship will be visited on [defendant’s] counsel in undertaking representation full-time for such a period without compensation. Accordingly, pursuant to Guidelines for the Administration of the Criminal Justice Act (“Guidelines”) ¶2.30, the following procedures for interim payments shall apply during the course of the representation of [defendant] in this case.

Submission of Vouchers

Each month [defendant's] counsel shall submit to the Clerk of Court an interim CJA Form 20 ("Appointment of and Authority to Pay Court Appointed Counsel"). Counsel's compensation earned plus reimbursable expenses incurred from the first to the last day of each month shall be claimed on an interim voucher submitted no later than the tenth day of the following month (or if that is not a business day, then the first business day thereafter). However, because of the date on which this memorandum order is being entered, counsel's first interim voucher shall reflect all compensation claimed and reimbursable expenses incurred from their effective dates of appointment to February 28, 1991 and shall be submitted no later than March 11, 1991. Counsel shall strike the pre-printed numbers on all but the first CJA Form 20 submitted and shall instead substitute the number appearing on the first voucher. In addition, counsel shall complete Item 21 of Form 20. Each voucher shall be numbered in series and shall specify the time period that it covers.

Interim vouchers shall be submitted in accordance with the schedule referred to in the preceding paragraph even though little or no compensation or expenses are claimed for a particular period. All interim vouchers shall be supported by detailed and itemized time and expense statements. Guidelines ch. 2, §3, which outlines the procedures and rules for claims by CJA attorneys, shall be followed for each voucher.

This Court will review the interim vouchers when submitted, particularly with regard to the amount of time claimed, and will authorize compensation to be paid for two-thirds of the approved number of hours at the applicable hourly rate.

This Court will also authorize for payment all reasonably incurred reimbursable expenses. Each approved interim voucher will be submitted directly to the Administrative Office of the United States Courts for payment.

At the conclusion of the representation, each counsel shall submit a final voucher seeking payment of the one-third balance withheld from the earlier interim vouchers, as

well as payment for representation provided during the final interim period. Counsel's final voucher shall set forth in detail the time and expenses claimed for the entire case, including all appropriate documentation and reimbursement previously received on the appropriate line of the final voucher, as well as the net amount remaining to be paid at the conclusion of the case. After reviewing the final voucher, this Court will submit the approved amount to the Administrative Office for payment.

Reimbursable Expenses

Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident to their representation of [defendant]. While the statute and applicable rules and regulations do not place a monetary limit on the amount of expenses that can be incurred, counsel should incur no single expense item in excess of \$150 without prior approval of this Court. Each such approval may be sought by filing an ex parte application with the Clerk of Court (in camera, if necessary) stating the nature of the expense, the estimated dollar cost and the reason that the expense is necessary to the representation. Upon a finding that the expense is reasonable, this Court will authorize counsel to incur it. Recurring expenses such as telephone toll calls, photocopying and photographs that are individually less than \$150, but aggregate more than \$150 on one or more interim vouchers, are not considered single expenses requiring court approval.

It travel outside of the Chicago metropolitan area is necessary for the purpose of interviewing witnesses or other case-related purposes, the \$150 rule should be applied in the following manner: Travel expenses such as air fare, mileage, parking fees, meals and lodging can be claimed as itemized expenses. Accordingly, if the reimbursement for expenses relating to a single trip is anticipated to aggregate an amount in excess of \$150, the travel should receive prior approval of this Court.

Counsel may find the following additional guidelines helpful:

1. Case-related travel by privately-owned automobile should be claimed at the rate of 24 cents per mile plus parking fees and toll charges. Transportation other than by privately-owned automobile should be claimed on an actual expense basis. Air travel in “first class” is prohibited.

2. Actual expenses incurred for meals and lodging while traveling outside of the Chicago metropolitan area in the course of this representation must conform to the prevailing limitations placed upon travel and subsistence expense of federal judiciary employees in accordance with existing government travel regulations. For specific details concerning high cost areas, counsel should consult the Clerk of Court.

3. Telephone toll calls, telegrams, photocopying and photographs can all be reimbursable expenses if reasonably incurred. However, general office overhead (such as but not limited to rent, secretarial help, paralegal services, computer-assisted legal research and local telephone services) is not a reimbursable expense, nor are items of a personal nature. In addition, expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are governed by Fed. R. Crim. p. 17 and 28 U.S.C. §1825.

Further Questions or Guidance

Answers to questions concerning CJA appointment can generally be found in (1) 18 U.S.C. §3006A, (2) the Plan of this District Court, available through its Clerk of Court, and (3) the Guidelines, which are published by the Administrative Office of the United States Courts and are also available through the Clerk of Court. Should those references

fail to provide the desired clarification or direction, counsel should address their inquiry directly to this Court.

Date: February 25, 1991

United States District Judge