

No. 22-

IN THE
SUPREME COURT OF THE UNITED STATES

Theodore Washington — PETITIONER
(Your Name)

VS.

David Shinn, Director — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Ninth Circuit Court of Appeals, District Court for the District of Arizona

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____
_____, or

a copy of the order of appointment is appended.

/s/ Jeffrey Green

(Signature)

FILED

UNITED STATES COURT OF APPEALS

JUN 28 2011

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

THEODORE WASHINGTON,

Petitioner - Appellant,

v.

CHARLES L. RYAN,

Respondent - Appellee.

No. 05-99009

D.C. No. CV-95-02460-JAT

District of Arizona,

Phoenix

ORDER

THEODORE WASHINGTON,

Petitioner - Appellant,

v.

CHARLES L. RYAN,

Respondent - Appellee.

No. 07-15536

D.C. No. CV-95-02460-JAT

District of Arizona,

Phoenix

Before: Peter L. Shaw, Appellate Commissioner

The motion of appellant's appointed counsel, Gilbert H. Levy, Esq., for interim payment under the Criminal Justice Act is granted. The voucher has been certified for the full amount claimed, as audited by the Clerk.

/Appellate Commissioner

Within 45 days after the final disposition of the case in this court or after the filing of a petition for a writ of certiorari, whichever is later, counsel may submit a final voucher seeking payment of any further compensation sought. *See* 9th Cir. R. 4-1(f).

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Theodore Washington,
Petitioner,

vs.

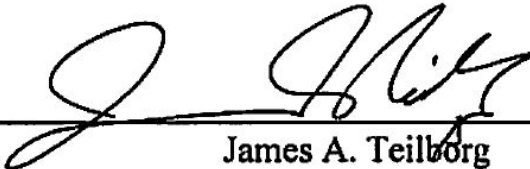
Charles L. Ryan, et al.,
Respondents.

) No. CV 95-2460-PHX-JAT
)
) DEATH PENALTY CASE

ORDER

IT IS ORDERED that the appointment of counsel Gilbert Levy (*see* Doc. 155) is *nunc pro tunc* to July 18, 2013.

DATED this 13th day of June, 2014.



James A. Teilborg
Senior United States District Judge

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Theodore Washington,
Petitioner,

vs.

Dora Schriro, et al.,
Respondents.

) No. CV 95-2460-PHX-JAT
) DEATH PENALTY CASE

ORDER

IT IS ORDERED that, in addition to the Guide to Judiciary Policies and Procedures for administration of the Criminal Justice Act (CJA), Volume VII (Appointment of Counsel in Criminal Cases), the following rules shall apply in this case as supplementing and interpreting those guidelines:

I. COST MANAGEMENT

A. Cost Effective Use of Staff

Appointed counsel is expected to utilize all means to minimize costs. Whenever appropriate, without compromising the quality of the work, tasks should be undertaken by the least expensive, competent staff member authorized by the Court and capable of performing the work. Appointed counsel are not permitted to earn a profit from use of support staff. See Guidelines for the Administration of the Criminal Justice Act, Ch. 2, Pt. C and Ch. 3, Pt. B.

Independent contractors will be reimbursed for the amount actually paid unless otherwise authorized by the Court. In-house staff will be reimbursed based on the cost to the firm (including salary, benefits and overhead). Use of associates, paralegals, law clerks,

1 summer associates, and law students must be pre-approved by the Court. *The Court expects*
2 *that counsel will develop a reasonable division of labor between counsel, and between*
3 *counsel and other staff, to avoid duplication of effort and excessive staff conferencing.*

4 If the Court authorizes use of other staff, the Court will not compensate such
5 individuals for time spent achieving and maintaining a working knowledge of the case. For
6 example, the Court will not pay paralegal time to attend attorney conferences, or to read court
7 orders and correspondence that are unrelated to a specific assigned project. Paralegal, law
8 clerk and associate work is generally limited to finite projects such as reviewing,
9 summarizing, and indexing records and documents; conferring with the client; researching;
10 and drafting pleadings.

11 B. Maintenance of Files

12 Appointed counsel are expected to maintain the records and files in this case in an
13 organized and accessible fashion to ensure that if substitution of counsel is required,
14 duplication of efforts will be minimized. The Court may condition final payment upon
15 compliance with this requirement.

16 II. SUBMISSION OF CJA VOUCHERS

17 A. Interim Payment Procedures

18 Because of the expected length of this case and the anticipated hardship on counsel
19 in undertaking representation for such a period without compensation, pursuant to ¶ 2.30 B
20 of the Guidelines for the Administration of the Criminal Justice Act, the Court has authorized
21 the submission of interim vouchers during the course of counsel's representation. Counsel
22 shall request payment on CJA Form 30, "Death Penalty Proceedings: Appointment of and
23 Authority to Pay Court Appointed Counsel."

24 The Court will review the interim vouchers for reasonableness. The Court also will
25 authorize payment for all miscellaneous expenses such as postage, copying, etc., reasonably
26 incurred, properly documented, and subject to national and district policies and procedures.

27 Within 30 days of the conclusion of proceedings in this Court, counsel shall submit
28 a final voucher seeking payment for representation provided during the final interim period.

1 B. Supporting Documentation

2 In addition to the CJA Form 30, counsel shall submit to the Court, an original and one
3 copy of itemized time worksheets and receipts for all expenses.

4 1. Timekeeping

5 Counsel are expected to maintain accurate time records; such records are subject to
6 audit and must be maintained for a period of six years and three months after approval of the
7 final voucher. Hours billed must be divided in tenths of an hour. ***Each time entry shall***
8 ***reflect discrete individual tasks and shall not simply list multiple tasks performed in a***
9 ***specified block of time.*** Information should be provided in sufficient detail to permit
10 meaningful review, e.g., identification of individual witnesses interviewed, identification of
11 persons involved in telephone conversations or conferences, specific topics researched,
12 identification of pleadings drafted or reviewed by title and number of pages, and, if necessary
13 for an understanding of any task, an explanation of its relevance to the federal proceedings.
14 However, counsel need not articulate the topic of any discussion with Petitioner. ***Aggregate***
15 ***time blocks or entries which are vague or ambiguous will not be approved for payment.***
16 If the level of detail is insufficient for auditing purposes, the vouchers may be returned to
17 counsel for resubmission with adequate detail or the Court may reduce the total amount
18 approved for payment.

19 2. Support Staff

20 Vouchers for independent contractors such as paralegal, law clerk, or law student
21 services, should be submitted by the individual(s) performing the service on a CJA Form 31,
22 Request for Authorization and Voucher for Expert and Other Services. A detailed
23 description of the services rendered, as set forth in the preceding “Timekeeping” section,
24 must be attached to the voucher.

25 3. Noncompensable Services

26 Compensation will not be approved for administrative, clerical, secretarial or word
27 processing services, regardless of whether the person performing the function is an attorney,
28 law clerk, paralegal or secretary, even if counsel has no regularly employed secretary.

1 Compensation will not be approved for work performed which is exclusively related to
2 exhaustion in state court. Nor will compensation be approved for tasks related to appeals
3 (whether from interlocutory orders or final judgments) or other work related to the review
4 of proceedings before this Court. Counsel are to seek compensation for work done at the
5 appellate level from the Ninth Circuit Court of Appeals after having obtained an appointment
6 as counsel of record from that court.

7 III. REIMBURSABLE EXPENSES

8 Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident
9 to the representation of Petitioner. However, counsel must seek prior approval for any
10 expenditure in excess of \$300.00, including all travel outside of the District. Proof of
11 payment by an original paid receipt, copy of a canceled check or credit card receipt shall be
12 submitted for any individual expense. Reimbursable expenses are subject to the following
13 additional guidelines:

14 A. Case-related travel by privately-owned automobile should be claimed at the
15 current government authorized rate, plus parking fees and tolls. Transportation other than
16 by privately owned automobile should be claimed on an actual expense basis.

17 B. Actual expenses incurred for meals and lodging while traveling outside of the
18 District in the course of Petitioner's representation must conform to the prevailing rates
19 placed upon travel and subsistence expenses of federal judiciary employees in accordance
20 with existing government travel regulations. All overnight travel must be pre-approved in
21 conjunction with the case budget or specific funding request. Appointed attorneys and
22 experts must take advantage of government travel rates through the government authorized
23 travel service when most economical. Air travel in First Class is prohibited.

24 C. Telephone toll calls, photocopies, facsimiles, and photographs are reimbursable
25 expenses if reasonably incurred. However, general office overhead, such as rent, secretarial
26 help, telephone service, publications, supplies, and costs related to educational seminars, or
27 time expended for preparation of vouchers are not reimbursable expenses, nor are
28 expenditures for personal items for the client.

1 Photocopying will be reimbursed at actual cost or \$0.10 per page, whichever is less.
2 Large copy orders should be reproduced by an outside copy service unless in-house
3 photocopying is more economically efficient. Facsimiles will be reimbursed at actual cost
4 or \$0.10 per page, whichever is less. In addition, expenses for service of subpoenas on fact
5 witnesses are not reimbursable, but rather are governed by Rule 17, Fed. R. Crim. P. and 28
6 U.S.C. § 1825.

7 D. Reimbursement is permitted for the actual cost of case-related regular U.S.
8 postage. Counsel are to make every effort to use regular U.S. mail whenever possible.
9 Reimbursement for the actual cost of other postal services or for the use of non-federal
10 carriers (such as overnight or two-day delivery) will be permitted only if there is a genuine
11 necessity for such a service. A copy of an itemized bill and statement detailing the requisite
12 necessity for expedited delivery is required for reimbursement.

13 E. The Court will not reimburse for messenger or attorney service without valid
14 justification for the use of such services.

15 F. Computerized research fees are considered office overhead, as are other fees for
16 library items. Given the availability of flat-fee subscriptions for computerized research
17 services, the Court will reimburse counsel for the costs of computerized research only upon
18 a showing of good cause, such as that fees imposed are outside the scope of the flat fee plan
19 or an explanation of why a flat fee plan is not feasible. If the Court authorizes
20 reimbursement for computer-related research, counsel must attach to any voucher claiming
21 such expense: (1) a statement detailing the subject matter of the legal research and the
22 estimated number of hours manual research would have taken, and (2) a copy of the bill.

23 G. In the event transcripts from this proceeding are required, counsel should arrange
24 with the court reporter(s) to bill the Court directly through use of a CJA Form 24. Counsel
25 shall not include the cost of transcripts as an out-of-pocket expense on a CJA Form 30.

26 H. Counsel may be required to provide further documentation substantiating the fees
27 or expenses claimed, or to submit a declaration under penalty of perjury detailing counsel's
28 compliance with the standards and procedures established herein.

