

DECISION OF AUDITOR – COUNSELS' FEES – CRIMINAL

DATE OF DECISION

11.12.95 J G

NAME OF CASE

HMA –V- [REDACTED]

CASE TYPE

Culpable Homicide, Forfar High Court

AUDITOR

J Haldane Tait, Court of Session

COUNSEL/SOLICITOR ADVOCATE

SC

AMOUNT(S) AWARDED

£575 per day – conduct of trial subsuming preparation

FEATURES

Trial commenced on 13.06.94 and lasted 7 days. Trial concluded on 19.06.94.

Accused had previously been tried and convicted. He successfully appealed. Crown were given leave to bring a new prosecution.

A case of considerable medical complexity. Detailed medical evidence including 9 expert medical witnesses were led.

A considerable number of expert medical opinions were required to show, beyond reasonable doubt, that the death of a 73 year old man was attributable to the assault and robbery.

A Joint Minute accepting assault and robbery was lodged which considerably reduced court time. The Auditor dealt with the various claims for consultations and other ancillary matters according to the circumstances of each claim, sometimes allowing the fees and otherwise abating.

Counsel claimed for 6 waiting days but the Auditor held them not to be waiting days as defined in *HMA –v- Birrell*.

Counsel claimed specific separate preparation fees of £200 for considering papers at the request of the Crown and £60 for writing a Note. The Auditor considered that this work formed part of the general preparation for trial, abated the charges in full and took the charges into account in fixing an enhanced daily trial fee.