

SCOTTISH COURT SERVICE

Sheriffdom of South Strathclyde, Dumfries & Galloway

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[Redacted]
Scottish Legal Aid Board
DX ED250
Edinburgh

Your reference

Our reference OMcS/JM

When calling ask Mrs McShane
Direct dial 01292 292200

Date 21 January 2008

Dear Sir

**McLENNAN ADAM DAVIS
LEGAL AID ACCOUNT –** [Redacted]

AB

I write with reference to the above case in which a taxation took place on 11 October 2007 and enclose herewith my finding.

Yours faithfully

MRS O McSHANE
Auditor of Court



INVESTOR IN PEOPLE

Fines & Criminal Office Hours
9:00 – 5:00

Sheriff Clerk – Mrs O McShane

Civil Office Hours
9:00–5:00



Electronic Payment Methods available for Fines and Civil Fees

Taxation Hearing

11th October 2007

Legal Aid Account A Bell - McLennan Adam and Davis

Act - Davis for McLennan Adam Davis

Alt - [REDACTED] for the Scottish Legal Aid Board

This case called before me for a decision on a matter of dispute which had arisen between McLennan Adam and Davis, Solicitors, Ayr and the Scottish Legal Aid Board. The dispute arose as a result of a legal aid account submitted by McLennan Adam and Davis in respect of the accused [REDACTED]

The account related to work carried out by the said firm McLennan Adam and Davis in respect of the accused [REDACTED] who was placed on a DTTO. The account was submitted to SLAB for the sum of £1062.75. The Legal Aid board after correspondence with McLennan Adam and Davis offered to pay the bill submitted £946.70 which was not accepted and formal objection was at that stage taken.

After initial discussions I was asked to rule on only one matter which appeared in the account lodged namely the number and length of entries for preparation for court hearings.

[REDACTED] presented a summary of the number of entries which appeared in the account that related to preparation time for court hearings. Objection was raised on the basis that the fee normally allowed for preparation for a court hearing is normally a maximum of 15 minutes but was claimed in the account presented for 30 minutes for all but one entry.

[REDACTED] went on to explain that

- He would expect account entries to be justified by detailed file entries based on a time recorded basis - which should detail the date work was carried out, the time engaged and the work carried out.
- A claim for expenses of this nature usually only relates to deferred sentences and not to Drug Testing and Treatment Order cases. With DTTO's it is expected that charges rendered for payment will be for 30 minutes for the first calling and 15 minutes for each calling thereafter.
- In respect of each entry in the account for time spent in preparation there is no explanation of what work was carried out - which would normally be expected by SLAB.
- When considering what fees will be allowed SLAB will take into consideration the nature of the offence and the record of the accused but that in any event in SLAB's view there would be very little preparation time required for Mr Bell's case.
- That in respect of the preparation that took place on the 7th March 2006 there are two claims for time spent in preparation. (Mr Davis conceded that this entry should be properly charged at one 15 minute block.

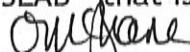
Mr Davis responded to these objections in the following terms

- The objections raised are not based on actual practical court experience.
- In Mr Davis's view this is a high tariff court disposal which is a direct alternative to custody which is constantly under review and therefore each calling of the case should not be deemed to be a formality. The reason being that court could at any time vary or revoke the order and for this reason the solicitor would always require to be prepared. Failure to do so could become a negligence issue.
- The preparation carried out is always recorded on a daily time sheet for all necessary work.
- Carrying out the minimum level of preparation for this type of case would not be appropriate as the offenders liberty is at risk. Therefore every time before each calling time he would be required to consider the accused personal circumstances, the case background and the up to date information available via reports etc.
- There were 2 account entries for 7th March as the report was not available until the day of the court.
- Meetings were required with the client in order that the conditions of the order could be considered.
- File notes of work in progress were maintained and available on file.

Having considered the position fully and having reviewed the case papers (of which there were 4 sets) in my view 30 minutes preparation for each calling of the Drug Testing and Treatment Order review is excessive. It should however be noted that I am in reaching this finding in no way criticising McLennan Adam and Davis for the priority that they have afforded their client and the professional nature of their work.

I accept Mr Davis's arguments about the nature of the court disposal and the fact that on each occasion that the cases called in court there was the potential for the accused to be sentenced for each of the offences - and in the case of this accused also to be sentenced in respect of the other deferrals for good behaviour. I also accept that the review of DTTO's cannot be treated in the same manner as a deferred sentence as the nature of this disposal is entirely different. None the less I am of the opinion given the short update reports provided that 15 minutes is sufficient to prepare for each calling given the regularity of the Court dates allocated.

I therefore recommend that the account be paid at the value offered by SLAB - that is £946.70.


O McShane
Auditor of Court
21/1/08