

Dundee Sheriff Court and  
Justice of the Peace Court



[REDACTED]  
Legal Services Department  
Scottish Legal Aid Board  
Edinburgh EH3 7SW  
LPI EDINBURGH 7.

14 March 2012

6 West Bell Street  
Dundee  
DD1 9AD  
DX: DD33 or LP:21

Tel:- 01382 318200  
Fax:- 01382 318222

Email:- [rmcmillan@scotcourts.gov.uk](mailto:rmcmillan@scotcourts.gov.uk)

Our Ref:

Your Ref:u8491/ms/bs



Dear Sirs

Legal Aid Account - [REDACTED]

FH

I attach copy of account taxed by me along with note in relation to the decision.

Yours faithfully

Roland McMillan  
Sheriff Clerk

Legal Aid Reference Number (LARN) - 1285953610

Account Information

Account Type	Final Account
Status	PAID
Case Summary	
Applicant PI	[REDACTED]
Applicant Name	[REDACTED]
Initial limit of authorised expenditure	£95.00
Current Expenditure	£2,255.00
Client Contribution	£0.00
Legal Aid Type	Civil ABWOR
Nature of work	advice re: detention and bail
Firm / Practitioner	
Firm Code	19674
Firm Name	BRUCE SHORT & CO SOLICITORS (19674)
Account Point Id	0
Branch Address	3 RATTRAY STREET DUNDEE DD1 1NA LP 44 DUNDEE 395201
Postcode	
LP	
Practitioner Code	395201
Practitioner name	MR GARY FOULIS
Practitioner Internal Ref.	U8491



Work Items

Date	Work	Desc	Start Time	Stop Time	Amount	Value
27/09/2010	Fee (Other)	assessing client for advice and assistance engaged 10.25 to 10.27	N/A	N/A	0.01	£0.01
27/09/2010	Outlay (Travel Mileage)	Office to Dungavel IRC and return to Office	N/A	N/A	216	£5.64
27/09/2010	Travel Time	Travel to Dungavel IRC	06:40	09:00	140	£7.09
27/09/2010	Meeting (Qualified)	Attendance with Client, at Dungavel House IRC, by Mr Foulis, noting initial instructions	10:27	10:47	20	£25.50
27/09/2010	Travel Time	Travel from Dungavel IRC to Office	15:20	17:40	140	£7.09
29/09/2010	Letter (Formal)	writing UKBA informing them we act and requesting factual summary	N/A	N/A	125	£2.90
X 05/10/2010	Precognition (ABWOR)	framing precognition	N/A	N/A	527	£21.75
05/10/2010	Outlay (Travel Mileage)	Travel to Dungavel IRC and return to Office	N/A	N/A	216	£50.76
05/10/2010	Letter (Formal)	Writing to [REDACTED] enclosing cheque for invoice 051002	N/A	N/A	125	£2.90
05/10/2010	Outlay (nc: otherwise specified)	[REDACTED] interpreting services per invoice number 051002	N/A	N/A	48.63	£48.63

21.75

Date	Work	Desc	Start Time	Stop Time	Amount	Value
05/10/2010	Travel Time (Unqualified)	Travel to Dungavel IRC	06:40	09:00	140	£31.75
X 05/10/2010	Meeting (Unqualified)	Attendance with Client at Dungavel, by [redacted] noting details for bail and taking precognition	10:20	11:15	55	£25.40 £19.05
05/10/2010	Travel Time (Unqualified)	Travel from Dungavel IRC to Office	12:00	14:20	140	£31.75
05/10/2010	Telephone (Unqualified)	attendance by [redacted] with farid abduallah completing surety for and answering questions	16:15	16:30	15	£12.75
11/10/2010	Telephone (Unqualified)	attendance by [redacted] with surety [redacted] completing surety questionair and answering questions	13:50	14:08	18	£25.50
19/10/2010	Letter (Formal)	writing NASS enclosing support application form	N/A	N/A	125	£2.90
27/10/2010	Letter (Formal)	writing IAC enclosing bail application	N/A	N/A	125	£2.90
27/10/2010	Letter (Formal)	writing clieng informing of date for bail hearing	N/A	N/A	125	£2.90
28/10/2010	Perusing	attendance by [redacted] perusing bail summary and considering and drafting submissions	17:45	18:30	45	£38.25
X 29/10/2010	Outlay (Travel Mileage)	Travel to IAc and return to Office	N/A	N/A	170	£26.64
X 29/10/2010	Outlay (not otherwise specified)	parking charges at IAC	N/A	N/A	6.6	£2.20
X 29/10/2010	Travel Time	[redacted]	07:00	09:00	120	£34.00
29/10/2010	Court (Waiting) C1	waiting on hearing	09:30	09:50	20	£25.50
29/10/2010	Meeting (Qualified) C1	meeting client before bail hearing noting final instructions and informing on submissions	09:50	10:05	15	£12.75
29/10/2010	Conjoined Fee	C1	09:30	10:05	35	£38.25
29/10/2010	Advocacy	appearing at bail hearing	10:20	10:45	25	£33.15
X 29/10/2010	Travel Time	[redacted]	13:00	15:00	120	£34.00
11/11/2010	Outlay (Travel Mileage)	Travel to Dungavel IRC and return to Office	N/A	N/A	216	£50.76
11/11/2010	Travel Time (Unqualified)	Tavel to Dungavel IRC	06:40	09:00	140	£31.75
11/11/2010	Meeting (Unqualified)	going over [redacted] notes from bail hearing bail decisions and detailed information regarding bail summary and decision disputes	10:45	11:35	50	£25.40
11/11/2010	Travel Time (Unqualified)	Travel from Dungavel IRC to Office	14:30	16:50	140	£31.75

£25.40  
£19.05

26.64  
2.2  
34.0

34.0

Date	Work	Desc	Start Time	Stop Time	Amount	Value
12/11/2010	Letter (Non-Formal)	writing UKBA detailing disputes in bail summary and requesting Temporary Admission be granted	N/A	N/A	1159	£72.50
12/11/2010	Letter (Formal)	writing client enclosing a copy of the letter sent to UKBA on there behalf	N/A	N/A	125	£2.90

Running Totals

Counsel	Court Dues	Expert	Fees	Other	Grand Total	Conjoined Total
£0.00	£0.00	£0.00	£545.04	£184.63	£729.67	£729.67

TOTAL OFF £ 124.94  
£ 604.73 print

Dundee 14 March 2012  
 I tax this account of expenses at £ 604.73  
 R McMillan  
 Auditor of Court

## Taxation Decision

Case: [REDACTED]

Legal Aid Reference Number: 1285953610

Bruce Short & Co, Solicitors, Dundee and The Scottish Legal Aid Board

This taxation proceeded in terms of regulation 18(4) of The Advice and Assistance (Scotland) Regulations 1996.

Bruce Short & Co were represented by [REDACTED] their accountant and [REDACTED] the practice manager and [REDACTED] appeared on behalf of the Board.

The solicitors' account was referred to me for taxation although the proceedings took place at the Immigration First Tier Tribunal in Glasgow. I was advised that Regulation 2 of The Advice and Assistance (Scotland) Regulations 1996 allowed the taxation to proceed before me and that parties agreed this should be done.

The account was prepared in terms of the Table of Fees Allowable to Solicitors for Assistance by Way of Representation contained in Schedule 3 Part 1 of the said regulations. I was advised that the tests that apply are contained in Regulations 17 (1)(a) and (b). The terms of which are:-

Subject to paragraph (2) below, fees and outlays allowable to the solicitor upon any assessment or taxation mentioned in regulations 18 and 19 in respect of advice or assistance shall and shall only be-

(a) fees for work actually, necessarily and reasonably done in connection with the matter upon which advice and assistance was given, due regard being had to economy, calculated in the case of assistance by way of representation in accordance with the table of fees in part 1 of Schedule 3

(b) outlays actually, necessarily and reasonably incurred in connection with that matter, due regard being had to economy, provided that, without prejudice to any other claims for outlays, there shall not be allowed to a solicitor outlays representing posts and incidents.

Briefly the proceedings in respect of which advice and assistance was given related to work done on behalf of [REDACTED] in connection with a bail application to First-tier Tribunal of the Immigration Appeal Tribunal (IAT).

The first item in the account that was disputed was the framing precognition fee of £21.75 on 5 October 2010.

The Board submitted that there was no need to take a formal precognition as it was unnecessary. Narrow issues are dealt with at the bail hearing and the

judge has to consider 3 main issues, the reason for the detention, the length of detention to date and its likely future duration, and the likelihood of the person complying with the conditions of bail. The precognition contains a substantial amount of background information that is already known to the IAT and Home Office and most of the information in the precognition is contained in the bail summary and letter of detention. The applicant must set out the grounds on which he is applying for bail in section 5 of the bail application form B1. A formal precognition is not required to complete this part of the form and therefore it is neither necessary or reasonable to do this having due regard to economy. Instructions taken for bail applications can be recorded in a file note.

The representatives of Bruce Short submitted that they needed to take a precognition as they were about to lodge an application before a tribunal, in this case a bail application. The precognition was needed as it contained important facts that countered or explained the information contained in the bail summary. In this case the immigration history of the applicant was paramount as it contained an explanation for his absconding in the past. Therefore the precognition was necessary.

The basis of the bail application is contained in the bail application form B1 and at section 5 of that form, the grounds on which bail is being applied for are required to be set out. In this case these grounds were included in a precognition which was incorporated in the form. In my view framing a precognition was not necessary having due regard to economy and I have disallowed the entry for this in the account.

The Board submitted that the attendance entry of 5 October - £25.40 should be restricted from 55 minutes to 45 minutes if I decided that a precognition was not necessary. I did not accept this submission on the basis that the purpose of the meeting was to take details for the bail application and was necessary. Parties agreed the fee, if allowed, should be £19.05.

The next items disputed were all the entries on 29 October 2010 relating to travel. These were outlays of £26.64 and £2.20 and fees of £34 and £34.

The Board submitted that all travel related entries should be abated in full as travel was not necessary due regard being had to economy. There were solicitors in Glasgow who could have been instructed to do the work and it was not reasonable for solicitors in Dundee to travel to Glasgow to do it.

There are a number of firms of solicitors in Glasgow who have a great deal of experience in the these types of proceedings. The bail application is a fairly straightforward type of procedure with narrow issues and took 25 minutes in this case. The Board gave the example of criminal bail appeals in Edinburgh being conducted by Edinburgh agents. They submitted that the information required to conduct the bail application could be forwarded to a local agent in Glasgow on the day before the hearing.

Bruce Short submitted that the bail application hearing was not a straightforward procedural hearing as it was not a hearing held prior to a substantive hearing. The matter in question was decided at the bail application hearing. They disputed the availability of other suitable agents as there were only a limited number of agents in Glasgow who did this type of work. They submitted that the clients position was best presented by their firm as they were better placed to respond to matters contained in the bail summary which is received on the day before the hearing. In addition the judge at the hearing will sometimes ask questions about the client's asylum application that only they can answer. They further submitted that the gravity of the hearing for their client was such that they should be at the hearing to represent him. In addition, they submitted that the amount of information that they would need to provide to a local agent made it impractical for them to instruct a local agent. In this particular application travel charges had been apportioned over 4 cases and there would have been no real saving in instructing a local agent. Finally they advised that clients in these types of proceedings were largely vulnerable people who could best be represented at hearings by their own solicitors.

The bail application hearing deals with 3 issues, the reason or reasons for the detention, the length of the detention to date and its likely future duration, and the likelihood of the person complying with the conditions of bail. Application is made by form B1, and a bail summary is served on the applicant before the day of the hearing, in this case 28 October 2010. There is therefore written material that can be used to instruct a local agent for a hearing restricted to 3 issues. There are agents in Glasgow who deal with this type of work. It is quite common in courts for further information to be sought from agents and where a local agent needs further instructions a telephone call can be made to the principle agents to obtain this. On the questions of gravity of the proceedings and vulnerability of clients, these may well be the case but properly instructed local agents deal with such matters every day. I do not accept that it is impractical to instruct local agents as again this is common in courts. In this case the hearing took 25 minutes with travel time of 4 hours, although this has been apportioned between four cases. Taking into account, the tests contained in Regulations 17 (1)(a) and (b) I am not satisfied that the fees and outlays for travelling are necessary and reasonable with due regard being had to economy and I disallow these.

The Board requested the expenses of the taxation if they were successful. In the circumstances, I find no expenses due to or by either party in respect of the taxation.

  
Roland McMillan  
Auditor of Court

14 March 2012