

JUL 30 2021

OFFICE OF LAWYER REGULATION

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19 January 2017

The Honorable J. P. Stadtmueller
United States District Court Judge
Federal Courthouse - Eastern District of Wisconsin
517 E. Wisconsin Ave. - Suite 182
Milwaukee, WI 53202

Re: United States v. Todd Dyer
Case No. 15-CR-115
Memorandum in support of fees

Dear Judge Stadtmueller,

We write pursuant to 18 USC § 3006A(d)(3) in support of compensation above the statutory maximum. The vouchers we are each submitting arise from our appointment as standby counsel for Mr. Dyer. While the attached vouchers do not reach the statutory maximum, we understand that, when added to the amounts previously submitted by predecessor counsel, the combined totals exceed the cap.

Mr. Dyer was indicted on June 9th, 2015 in a four co-defendant, 31 count indictment that alleged wire fraud, money laundering and interstate transportation of money obtained by fraud. A superseding indictment was later filed reducing the number of co-defendants to three and the counts to 24, with the same types of charges. Mr. Dyer was also indicted on two other cases that also alleged wire fraud and money laundering for which we were not appointed as standby (15-CR-137 and 16-CR-100)

16-CR-100

In this case, Mr. Dyer was first represented by Attorney Troy Owens whom he retained, but Mr. Owens was granted leave to withdraw as counsel on September 1st, 2015. Subsequently, on October 5th, 2015, Mr. Dyer filed a motion for leave to proceed *pro se*, which was granted on October 10th, 2015.

On October 15th, 2015 Attorney Robert LeBell was appointed to serve as standby counsel but seven months later, on May 31st, 2016, he was granted permission to withdraw. On June 10th, 2016 Attorney Patrick Cafferty was appointed standby counsel but after two months, on August 3rd, 2016, he was also granted permission to withdraw.

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Mr. Dyer continued *pro se* until November 3rd, 2016 when the government filed a letter suggesting that he should be provided standby counsel for the trial which was scheduled to last two weeks beginning December 5th, 2016. Mr. Dyer did not object and the Federal Defender's Office asked undersigned counsel to serve as co-standby counsel given the looming trial, its expected duration, and the difficulty of finding a single lawyer whose calendar could accommodate such an appointment on short notice. On November 14th an order was entered appointing undersigned counsel to serve as co-standby counsel for the jury trial.

With approximately three weeks remaining before trial, undersigned counsel began getting up to speed on the case by reviewing the docket, printing the most significant documents and pleadings, and meeting with Mr. Dyer to discuss trial practice and procedure. We reviewed the trial court's scheduling order with him, and explained what he needed to do to meet his requirements regarding the preparation of exhibits and other trial materials. We also discussed the Federal Rules of Evidence we anticipated would be most in play during the pending trial, and created a "cheat sheet" for him with brief explanations of certain objections, and guidelines for potential counter-arguments he could make. We did not review the discovery due to its sheer volume, and given the short time we had to prepare and our limited function as standby counsel.

As the trial drew closer, we advised Mr. Dyer regarding his responsibilities for contributing to the final pretrial report, and also assisted him with trying to arrange for subpoenaing witnesses he wished to call pursuant to Rule 17(b) of the Federal Rules of Criminal Procedure. When the final pretrial report was generated and the government filed a trial brief, we answered questions he had about how to use information contained therein to develop his trial defense. We also advised him regarding questions he had about how to respond to the motions in limine filed by the government. We also both appeared with Mr. Dyer at the final pretrial conference.

For trial, we made a schedule of which days each of us would appear with Mr. Dyer. As such, Mr. Donovan appeared on December 5th, spending all day in court, and Mr. Pruhs appeared with Mr. Dyer on December 6th for a full day in court.

After court on December 6th, Mr. Dyer asked Mr. Pruhs to express to the government that he was interested in resolving the case with a plea. That night Mr. Pruhs spent an additional two hours serving as a conduit of information and facilitating plea negotiations with the government, and answering any questions Mr. Dyer had during that process.

On December 7th before the case was called, the negotiations continued in the courthouse and Your Honor allowed us time to work on a resolution. By noon Mr. Dyer and the government had reached a global resolution resolving all three of his pending cases, and Mr. Pruhs continued to serve as standby counsel for Mr. Dyer through a change of plea hearing.

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On December 8th, we both had additional discussions with Mr. Dyer regarding certain questions and concerns he had about his case. Following those discussions, we confirmed with the CJA Panel Administrator that our obligations under this appointment had been concluded. Undersigned counsel and Mr. Dyer have had several conversations to determine whether he wishes to have full or standby counsel appointed for sentencing, but he has not elected either option at this point and we have been told to close the currently open vouchers.

Conclusion

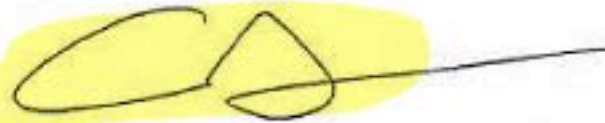
Ultimately, Mr. Pruhs spent 10.7 hours out of court working with Mr. Dyer to prepare for trial (in addition to .5 hours attending the final pretrial conference) and 1.5 hours over two days of trial and plea negotiations which resulted in Mr. Dyer's global plea agreement. Mr. Donovan spent 11.0 hours out of court and 9.0 hours in court for the final pretrial conference and first day of trial. It should be noted that we each did not bill for several short calls, emails, document review, and other miscellaneous work on the case that may have added up to a few more hours of time combined. Also, whenever feasible, we delegated tasks among ourselves to avoid duplication of work on this case.

For the reasons stated in this letter, we respectfully ask the Court to find that the work we did was necessary to provide Mr. Dyer with adequate standby representation and justifies compensation above the statutory maximum. Thank you.

Sincerely,

M. J. Pruhs

Martin J. Pruhs



Chris Donovan

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