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United States District Court, D. Massachusetts.

William LANGTON,  
v.  
William HOGAN, et al.

Civ. A. No. 79-2167-Z. | January 8, 1988.

#### Attorneys and Law Firms

John W. Bishop, NANCY WHITE, Counsel Dept. of Correction, Boston, Mass., Donald G. Ranieri, Howard C. Abbott, Franklin, Mass., for defendants.

John Monaghan, Paul E. Troy, Sherburne, Powers & Needham, Boston, Mass., for plaintiffs.

#### Opinion

### MEMORANDUM OF DECISION

ZOBEL, District Judge.

\*1 Plaintiff, an inmate at the Southeastern Correctional Center ('SECC'), settled a civil rights complaint against defendants concerning access to the telephone in the maximum security area known as the 'Fort.' Under the settlement, defendants agreed to promulgate and adhere to certain regulations that provide inmates of the Fort with both access to the telephone and privacy in making calls. The settlement was approved by the Court. Shortly after it was concluded, plaintiff began to complain that defendants in various ways violated its terms. Eventually he filed a petition for contempt.<sup>1</sup> After the hearing, I found that the intent and language of the regulations had been violated by defendants regularly asking inmates whether the prospective telephone call was personal or legal and on one occasion requiring an inmate to divulge the name and number of the person to be called. I ordered

#### Footnotes

<sup>1</sup> The settlement stipulation also provided for disposition of a case concerning personal property. Although plaintiff asserted violations of that part of the agreement as well, the property case is not implicated in the motion now before me.

defendants henceforth to comply with the regulations. Plaintiff's counsel has filed a motion for attorney's fees and costs under 42 U.S.C. § 1988 (1982).

Because the Court did not hold defendants in contempt, they argue that plaintiff is not a prevailing party. While it is true that plaintiff did not achieve the remedy of contempt, he did establish a practice of noncompliance with the regulation and the Court did, as a result, order that no inmates shall be requested to divulge information contrary to the regulation. He thus prevailed.

Defendants next object to the amount claimed. For prosecuting the contempt, plaintiff's counsel spent a total of 93.25 hours. They also claim for 36.25 hours devoted to the fee petition. Shortly after he accepted the appointment, Mr. Paul E. Troy properly brought into the case a young associate in his firm, Mr. John J. Monaghan, who thereafter took the laboring oar in the preparation of the case for trial. That work included conferring with the witnesses by telephone and at the institution, conferring with counsel, research and drafting of a memorandum and a reply to defendants' brief, preparation for and attendance at the hearing which extended over two days. Ten and one-half hours of that time was spent at the hearing. I find the claimed time of more than fifty hours for the remainder of the pretrial work somewhat excessive and shall allow therefor forty hours. Mr. Troy spent a total of 29.75 hours which I deem to be reasonable. In sum, I find plaintiff's counsel reasonably expended 80.25 hours on the contempt prosecution.

I further find that twenty hours is a reasonable time for preparing the fee petition and supporting affidavits and memoranda. Mr. Troy's hourly rate was \$130 until June 1985 and \$150 thereafter. Mr. Monaghan's time was billed at \$65 per hour. Given their respective experience and background, these are reasonable rates. At those rates, the lodestar amount is \$9,466.25.

No adjustment is warranted of the lodestar amount and counsel are awarded the sum of \$9,466.25 for their fee and \$60.11 for telephone, xerox and transcript expenses.

