

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

RILEY CLIFFORD, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0112

Case Type: PA

DECISION NO. 36727-A

Appearances:

Ronald English, Attorney, Hippenmeyer, Reilly, Moodie & Blum, S.C., 720 Clinton Street, Post Office Box 766, Waukesha, Wisconsin, appearing on behalf of Riley Clifford.

William Ramsey, Attorneys, Wisconsin Department of Administration, 101 East Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin, Department of Corrections.

AWARD OF ATTORNEY FEES AND COSTS

Pursuant to our order issued on February 13, 2017, we directed counsel for Appellant Riley Clifford to submit documentation in support of the fee request. We requested detailed billing information in order to satisfy our duty under § 814.245, Stats. to award fees and costs consistent with the requirements set forth therein.

Clifford has submitted documentation and no opposition has been presented by the Wisconsin Department of Corrections. Attorney fees in the amount of \$6,840.00 are requested based upon an hourly rate of \$225.00. The time spent, 30.4 hours, is reasonable for discharge cases, particularly in the somewhat arcane area of Chapter 230 proceedings. The statute limits the hourly rate to \$150.00 an hour, but permits adjustment for cost of living or “a special factor, such as the limited availability of qualified attorneys.” § 814.245(5)(a)(2), Stats. Here Clifford argues that the high cost of living in Waukesha County justifies a fee adjustment. That argument has no merit.

The \$150.00 per hour limitation was adopted in 2004 as a result of an amendment to the statute. *See* 2003 Wis. Act 145. Applying a cost of living adjustment to the rate of \$150.00

results in a 2016 adjustment to \$190.58. We will apply the rate of \$190.00 per hour to counsel's 30.4 hours of work which yields \$5,776. Clifford also requests payment of \$609.82 in costs which we also award. Counsel utilized 9 hours of law clerk time at \$50.00 per hour and 7 hours at \$25.00 per hour for a total of \$625.00. The statute references attorney and agent fees. We view the law clerk hours as "agent" time and, accordingly, direct its award as well. The total therefore is \$7,010.82 and that amount shall be paid to counsel for Clifford.

ORDER

The State of Wisconsin Department of Corrections shall pay the amount of \$7,010.82 to Appellant Riley Clifford's counsel in this matter.

Signed at the City of Madison, Wisconsin, this 11th day of April 2017.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner