

TOMMY L. STANFORD LAW FIRM, PC

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PERSONAL AND CONFIDENTIAL

March 19, 2015

Ms. Michelle Dennis
Fee Disputes Coordinator
Public Services Division
South Carolina Bar
P.O. Box 608
Columbia, SC 29202-0608

**RE: Fee Dispute
C. Rauch Wise**

Dear Ms. Dennis:

Please find enclosed the letter sent to C. Rauch Wise, Esquire, and Mr. Joe Haymes #183501 and the Decision of Fee Dispute Panel in reference to the above captioned matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tommy L. Stanford'. The signature is stylized and cursive.

Tommy L. Stanford
Chairman of the Eighth
Circuit Panel of the
Resolution of Fee Disputes Board

CC: C. Rauch Wise, Esquire, VIA: E-mail
Chad Bettis, Esquire
Adam Bacot, Esquire
Rhett Burney, Esquire
Mr. Joe Haymes #183501

RECEIVED
MAY 21 2015
SC Court of Appeals

- ATTENTION -

- DECISION -

PLEASE FIND ENCLOSED ALSO A COPY OF LETTER FROM ATTORNEY, TOMMY STANFORD; CHAIRMAN OF THE EIGHTH CIRCUIT; OF THE DECISION AND ORDER FROM THE SAME FEE DISPUTE BOARD CONCERNING [C. RAUCH WISE]. HIGHLIGHTED ON THIS LETTER IS ATTENTION TO RULE 416, SOUTH CAROLINA APPELLATE COURT RULES, AND THE ORDER APPELLANT MUST PROCEED TO AGGRIEVE SUCH DECISION.

ALSO, PLEASE FIND ENCLOSED IS A COPY OF THE [DECISION OF FEE DISPUTE], THREE PAGES; AND [REASONS] SO STATED OF THEIR DECISION. THIS IS THE ONLY ORDER I HAVE, AND THE REASON OF APPEAL CONCERNING SUCH DECISION.

CHAIRMAN OF EIGHTH CIRCUIT FEE DISPUTE BOARD:

TOMMY L. STANFORD (CHAIRMAN OF EIGHTH CIRCUIT)

CHAD BETTIS, ESQUIRE - HEARING PANEL

ADAM BARDT, ESQUIRE - HEARING PANEL

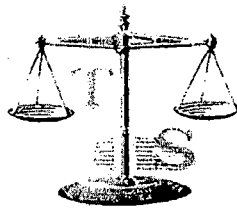
RHETT BURNLEY, ESQUIRE - HEARING PANEL

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March 19, 2015

Mr. Joe Haymes #183501
Perry Correctional Institution (D-X-6)
430 Oaklawn Road
Pelzer, SC 29669

Attorney C. Rauch Wise
305 Main Street
Greenwood, SC 29646

RE: Fee Dispute

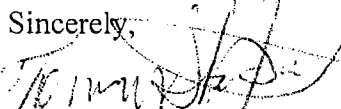
Dear Mr. Haymes and Mr. Wise:

I have received a report from the Hearing Panel, consisting of Chad Bettis, Esq., Adam Bacot, Esq., and Rhett Burney, Esq., the investigating panel assigned to this matter. I have enclosed a copy of that report for your review.

Based upon the investigation findings, the Decision of Fee Disputes Panel and the Rules of Procedure of South Carolina Bar Resolution of Fee Disputes Board, I concur with their recommendation. It is the decision of the Panel that no refund is due to Mr. Haymes and your application be denied and I again, concur.

This completes the action of the committee with regard to this matter. I am filing the original decision with the South Carolina Bar. I call your attention to Rule 416, South Carolina Appellate Court Rules, Rules of Procedure, South Carolina Bar Resolution of Fee Disputes Board, Rule 20, as it relates to Appeals for a party aggrieved by final decision.

Sincerely,


Tommy L. Stanford
Fee Disputes Board Chair
Eighth Judicial Circuit

In Re:)
C. Rauch Wise)

Complainant,)
Joseph Charles Haymes)

Decision of Fee Dispute Panel

RECEIVED

MAY 21 2015

SC Court of Appeals

Date of Hearing: September 17, 2014
Place of Hearing: Greenwood County, SC
Fee Dispute Panel: Chad Bettis, Esq.
Adam Bacot, Esq.
Rhett Burney, Esq.

Witnesses present: C. Rauch Wise
Joseph Charles Haymes (via teleconference)

The complainant, Joseph Charles Haymes, filed an Application for Resolution of Disputed Fee with the Resolution of Fee Disputes Board filed on April 30, 2014. After due notice, this dispute was heard on September 17, 2014 in Greenwood County at the offices of Ayers, Smithdeal & Bettis, PC. The complainant, Joseph Haymes, was present via teleconference, along with Rauch Wise, respondent. The panel was comprised of Chad Bettis, Adam Bacot and Rhett Burney. Only the parties and the panel were allowed into the conference room; each party was given the opportunity to present testimony, witnesses and documentary evidence. Neither party called any witnesses.

The complainant was the first to testify and presented the panel with documents that were submitted by mail previous to the hearing. The documents consisted of the following:

1. The initial application with complainant's handwritten statement attached;
2. Packet of information supplied by the Hanson Law Firm containing complainant's banking records regarding his PCR matter and retaining his PCR attorney, Rauch Wise;
3. Handwritten letter from complainant dated September 1, 2014;
4. Handwritten letter from complainant dated September 11, 2014;
5. A packet of handwritten letters and various documents submitted by complainant with the first page being a Table of Contents, which sets forth the contents of the packet.

The respondent presented the panel with documents consisting of the following:

1. Affidavit of C. Rauch Wise, respondent;
2. Affidavit of Joseph Charles Haymes, complainant;
3. Additional affidavit of C. Rauch Wise;
4. Affidavit of Sandy Traynham;

5. Handwritten letters from complainant to respondent dated February 3, 2013, April 14, 2013 and December 17, 2013;
6. Billing statement from respondent dated 5-8-14;
7. Bank of America credit card statement of respondent.

After an investigation of this matter, consisting of a review of the application, supporting documentation and letters from complainant, a teleconference hearing with both parties on September 17, 2014, and additional documentation received from the lawyer, including his billing statement and affidavits, it is the panel's recommendation that Mr. Haymes's application be denied based on the following discussion and findings:

The complainant disputes the fees charged by lawyer for various reasons set forth in his application: (1) because complainant never got to court through continuances and complainant had to withdraw his PCR case because of health reasons and claiming he was not notified of the hearing at the time; (2) complainant contends that lawyer stated to him that lawyer did not have to use the investigation money; (3) complainant contends that the transcripts and documents needed for the case were already obtained and sent to the lawyer; (4) complainant contends that there is no way lawyer could have spent that much time on the PCR case and not have what he needed for previous hearings that were continued; (5) that complainant feels there should be an adjustment to his refund and return of money paid.

Besides his general allegations about the amount of time lawyer spent handling the PCR case, complainant did not take issue with any fees paid to lawyer in his application or in his supporting documentation besides the amount paid to lawyer for the investigator fees, which totaled \$2,500.00. Complainant initially paid lawyer \$2,500.00 in fees to review the PCR case and the transcript of the trial - complainant does not indicate a dispute with this portion of the fee paid to lawyer.

Complainant then paid lawyer a retainer fee of \$5,000.00 to handle the PCR case. Complainant later paid lawyer an additional \$2,500.00 for investigation fees to hire an investigator. The lawyer's billing statement and affidavit indicate that lawyer billed \$3,393.96 toward work he performed in handling the PCR case after his initial review of the case and trial transcript. The billing statement and affidavit also show that that lawyer forwarded the amount paid for investigation fees, \$2,500.00, to Don Girdnt, an investigator hired to assist with investigating the PCR claim. In late October, 2013, the PCR claim was voluntarily withdrawn by complainant just before his case was scheduled to be heard. Afterward, lawyer subsequently refunded complainant \$1,686.04, which lawyer's records show was the difference between the time he billed (\$3,393.96) and the retainer paid (\$5,000) by complainant, plus \$80.00 more, which lawyer states was a miscalculation and actually an overpayment to complainant.

Complainant contends there should be an adjustment to the refund he received and a return of additional money. Complainant application indicates he was refunded only \$1,300.00 by lawyer. Likewise, one of complainant's letters to lawyer, dated December 17, 2013, which was submitted to the panel by lawyer, states that complainant claims he was refunded \$1,300.00 and requests lawyer to refund him an additional \$300.00. Complainant did not submit this letter to the panel. Furthermore, the records show that complainant was actually refunded a total of \$1,686.04 by lawyer, exceeding the amount requested by complainant, and complainant did not dispute this amount at the panel hearing. On the other hand, complainant submitted a different letter to the panel, also dated December 17, 2013, wherein complainant states that he was

refunded \$1,323.00 and requests lawyer to refund an additional \$600.00 - \$700.00. This letter was evidently written for the panel based on complainant's memory of his initial letter and was not a letter actually sent to the lawyer by complainant. Although the letter does contain similar information as the letter submitted by lawyer, it was clearly different and contained different amounts.

Complainant's primary argument for an additional refund is based on his contention that lawyer stated to him that lawyer "never really used the investigation money", though the records show that lawyer did pay \$2,500.00 to an investigator in the PCR case, who lawyer stated did not agree to return any money paid for his services. Complainant's two different letters of the same date are inconsistent regarding the amount of the refund complainant was requesting. The totality of the record shows that lawyer actually refunded complainant more than complainant requested. At the panel hearing, complainant did not state an additional amount he thought should be refunded, but only contended that he wanted the panel to look into the matter and decide the issue.

Finally, regarding complainant's general dispute regarding the time spent by lawyer handling the PCR case, complainant signed an affidavit, submitted by lawyer, stating that he did meet with lawyer and fully discussed all issues in the PCR with lawyer and discussed the investigator's findings in the case and discussed fully all issues that are available in the PCR. Complainant further attested that he wished to withdraw his PCR petition and that he made that decision freely and voluntarily and that Mr. Wise was prepared to go forward with the hearing that was scheduled for October 28, 2013 and that the expert witness was available to testify at the hearing. Although complainant submitted multiple documents and letters for the panel's consideration, complainant did not submit this affidavit to the panel. The affidavit does not take any issue with the lawyer's work or time spent on the PCR case. On the contrary, it shows that complainant was fully informed of the issues in his case and that he understood that the lawyer was prepared to go forward with the hearing.

Decision

After much discussion about this matter at the conclusion of the hearing and after an investigation and review of the documents and affidavits submitted by the parties both during the hearing and at the conclusion of the hearing, and after hearing and considering the statements of the parties at the hearing, it is this panel's recommendation that complainant's application be denied. This is a unanimous decision of the Panel.



Chad Bettis
Fee Dispute Panel Chair