

WYOMING SUPREME COURT

Tolin v. State, Department of Family Services

294 P.3d 879 (Wyo. 2013) · Decided January 25, 2013

SUMMARY

The Wyoming Supreme Court affirmed a district court's fifty percent reduction of attorney fees requested by court-appointed counsel representing an indigent parent in a parental-rights termination action. The court held that the district court acted within its discretion under the lodestar approach because the fee applicant failed to demonstrate that the claimed hours were reasonable and included excessive, clerical, and inadequately supported time entries.

CASE DETAILS

COURT	Wyoming Supreme Court
WRITING FOR THE COURT	Golden, Justice; Burke; Golden; Hill; Kite; Voigt
JURISDICTION	Wyoming
DECIDED	January 25, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Court-appointed counsel appealed the district court's order reducing his requested attorney-fee award by fifty percent in a parental-rights termination action.
STANDARD OF REVIEW	Attorney-fee awards are reviewed for abuse of discretion. The appellate court gives substantial deference to the trial court but may independently review the record or set the fee because appellate judges are experienced in assessing the reasonableness of attorney-fee awards.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	Donald L. Tolin v. State of Wyoming, Department of Family Services

TOPICS

- attorney fees
- termination of parental rights
- standard of review
- appellate procedure
- family law procedure

PRACTICE AREAS

- family law
- attorney fees
- appellate procedure
- civil procedure
- termination of parental rights

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by reducing Tolin's requested attorney fees by fifty percent.
2. Whether the district court's fee reduction was unsupported by the evidence, arbitrary, or capricious.
3. Whether a district court may make a percentage reduction in claimed attorney hours without examining every billing entry individually.

HOLDINGS

1. The district court did not abuse its discretion by reducing Tolin's claimed attorney hours and fee award by fifty percent.
2. A district court need not identify and justify every disallowed hour or specify the precise number of hours allowed for each task when the record provides sufficient reason for a general reduction.
3. Hours for purely clerical, excessive, redundant, or unproductive work are not reasonably compensable at an attorney's rate and may be excluded from the fee award.

KEY QUOTATIONS

“The district court has the obligation to peruse the fee application with an experienced eye.” (884)

“A general reduction of hours claimed in order to achieve what the court determines to be a reasonable number is not an erroneous method, so long as there is sufficient reason for its use.” (886)

“Having laboriously reviewed the record in light of the district court's decision letter, Mr. Tolin's contentions, and the considerations set forth in this opinion, we hold that the district court did not abuse its discretion when it reduced Mr. Tolin's fee application by fifty percent.” (888)

FACTUAL BACKGROUND

Tolin was appointed to represent an indigent parent in a state-filed termination-of-parental-rights action. He claimed 487.17 hours at \$100 per hour, supported by detailed billing records, for a total fee request of \$48,717. The successor district judge identified excessive research, clerical work, discovery review, exhibit review, and implausibly long daily billing entries, and reduced the requested fees by fifty percent while awarding the requested expenses.

PROCEDURAL HISTORY

The district court appointed Tolin to represent an indigent parent in a termination-of-parental-rights proceeding. After a seven-day jury trial resulted in termination of the parent's rights and the parent withdrew her appeal, Tolin sought \$48,717 in fees and \$334.30 in expenses. A successor district judge awarded \$24,858.50 in fees and all claimed expenses, and Tolin appealed the fee reduction to the Wyoming Supreme Court.

DISPOSITION

affirmed

CASES CITED

- Joe's Concrete & Lumber, Inc. v. Concrete Works of Colorado, Inc., 2011 WY 74, ¶ 12, 252 P.3d 445, 448 (Wyo. 2011)
- Ultra Resources, Inc. v. Hartman, 2010 WY 36, ¶ 149, 226 P.3d 889, 935 (Wyo. 2010)
- Fox v. Vice, 563 U.S. 826, 131 S. Ct. 2205, 2216 (2011)
- UNC Teton Exploration Drilling, Inc. v. Peyton, 774 P.2d 584, 594-95 (Wyo. 1989)
- Stanbury v. Larsen, 803 P.2d 349 (Wyo. 1990)
- Miles v. CEC Homes, Inc., 753 P.2d 1021 (Wyo. 1988)
- Jones Land & Livestock v. Federal Land Bank, 733 P.2d 258 (Wyo. 1987)
- Hinckley v. Hinckley, 812 P.2d 907, 915 (Wyo. 1991)
- Combs v. Walters, 518 P.2d 1254 (Wyo. 1974) (per curiam)
- Hensley v. Eckerhart, 461 U.S. 424 (1983)
- New Jersey v. EPA, 687 F.3d 386, 390 (D.C. Cir. 2012) (per curiam)
- Missouri v. Jenkins, 491 U.S. 274, 288 n.10 (1989)
- Walker v. United States Department of HUD, 99 F.3d 761, 770-71 (5th Cir. 1996)
- Lipsett v. Blanco, 975 F.2d 934, 940 (1st Cir. 1992)
- Case v. Unified School District No. 233, Johnson County, Kansas, 157 F.3d 1243, 1254 (10th Cir. 1998)
- Copeland v. Marshall, 641 F.2d 880, 888, 908 (D.C. Cir. 1980)
- Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546 (1986)
- Mares v. Credit Bureau of Raton, 801 F.2d 1197, 1202-08 (10th Cir. 1986)
- Metro Data Systems, Inc. v. Durango Systems, Inc., 597 F. Supp. 244, 246 (D. Ariz. 1984)
- Chrapliwy v. Uniroyal, Inc., 583 F. Supp. 40, 49 (N.D. Ind. 1983)
- Ramos v. Lamm, 713 F.2d 546, 553 & n.2 (10th Cir. 1983)
- Oklahoma Aerotronics, Inc. v. United States, 948 F.2d 1344, 1347 (D.C. Cir. 1991)
- Kirsch v. Fleet Street, Ltd., 148 F.3d 149, 173 (2d Cir. 1998)