

ENGLAND AND WALES / JUDGMENT

R v Murphy

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IN THE HIGH COURT OF JUSTICE SENIOR COURTS COSTS OFFICE Neutral Citation No. [2026] EWHC 1154 (SCCO) Case No: T20187176 SCCO Reference: SC-2023-CRI-000014 Thomas More Building Royal Courts of Justice London, WC2A 2LL Date: 14 May 2026 Before: SENIOR COSTS JUDGE ROWLEY R v MURPHY Judgment on Appeal under Regulation 29 of the Criminal Legal Aid (Remuneration) Regulations 2013 Appellant: Nicholas Bleaney (Counsel) The appeal has been successful for the reasons set out below. The appropriate additional payment, to which should be added the sum of £500 (exclusive of VAT) for costs and the £100 paid on appeal, should accordingly be made to the Applicant. SENIOR COSTS JUDGE ROWLEY SENIOR COSTS JUDGE ROWLEY Approved Judgment Senior Costs Judge Rowley: R v Murphy 1. 2. 3. 4. 5. 6. 7. This is an appeal by Nicholas Bleaney of counsel against the sums allowed by the determining officer under the Criminal Legal Aid (Remuneration) Regulations 2013, as amended. This case has been beset by delays at every turn. The defendant was convicted in May 2019 and the appellant here describes the delay between conviction and sentence as being “exceptional”. Further delays have then occurred following the appeal before the Court of Appeal in February 2021 in respect of the fees claimed by counsel. Regrettably, those delays have continued up to and including the appeal in the SCCO from the determining officer’s written reasons. Those written reasons set out the background to this case in considerable detail. For the purposes of this appeal, I do not need to be as comprehensive. Heidi Murphy, the defendant, was one of a number of defendants convicted of conspiring to supply Class A drugs. Legal aid was granted by a single judge for leave to appeal on both conviction and sentence. The appeal against conviction was unsuccessful, but the sentence was reduced from 12 years’ imprisonment to 10 years. The appeal against conviction was based on two essentially procedural grounds. One concerned documents provided to the jury when they asked for a short-circuit to some of the relevant documentation from the significant number of documents in the case. The challenge was as to whether the prosecution had been allowed to provide too much documentation to the jury in an attempt to reiterate points made by the Crown at the trial. The second ground, which also related to the ground of appeal in respect of the sentence, concerned the question of the defendant’s mental acuity. There had been no indication when the defendant was interviewed about her very low IQ but, by the time of the trial, the defendant’s legal team was sufficiently concerned to obtain a report from Dr Woods, a consultant psychologist. Apparently, the report arrived after the defendant had started giving evidence and so the special measures recommended by Dr Woods, and which were accepted by the trial judge, were not put in place until partway through her examination in chief. The appeal in respect of conviction was on the basis that agreed facts based on Dr Wood’s report were not put before the jury. In particular, the defendant sought to explain the defendant’s monosyllabic

answers by reference to the medical evidence. The appeal against sentence alleged that the judge had failed to take into account the contents of Dr Wood's report, and in particular the limitations on the defendant's intellect. That limitation raised doubt about whether she appreciated there had in fact been two conspiracies and which fact had caused the sentence to be raised by three years to reflect that second conspiracy. Counsel spent 11 and three-quarter hours in preparing and drafting the advice and grounds of appeal against conviction in May 2019. He spent a further seven hours in October 2019 perfecting that advice and grounds of appeal following receipt of transcripts and annotating them in accordance with the requirements of the Court. In February 2020, he produced advice and grounds of appeal against sentence, which took 4 ½ hours and, in February 2021, counsel spent 8 hours preparing to appear SENIOR COSTS JUDGE ROWLEY Approved Judgment R v Murphy 8. 9. before the Court of Appeal and approximately two hours on the day of the appeal itself. Counsel claimed a fee of £1,050 plus VAT for the original drafting of the advice and grounds of appeal against conviction. He claimed a further £2,100 in respect of the work thereafter. All of the time claimed is charged at £100 per hour. The determining officer allowed a rate of £70 per hour for the work done. He was content with the work done in respect of the second fee, but thought that the 11 hours 45 minutes in respect of the original advice and grounds of appeal against conviction was too high and halved the amount of time. The result therefore was a fee of £400 in respect of the original work and £1,450 for the later work described as a brief fee. 10. The determining officer's reasoning for the reduction in the time claimed for the first fee is as follows: "The preparation time in regard to the drafting of the Advice and Grounds of Appeal against conviction was considered to be high and about half this time was allowed at the same rate. The document comprised about 5 ½ pages of A4 drafted just four days after the appellant had been convicted. Counsel would have been very familiar with the issues and would not, in my opinion, reasonably require to spend a day and a half drafting this document at this time. In his Note for Taxation counsel refers to the fact that at the trial, there were 2,000+ pages of prosecution statements and 25,000+ pages of exhibits, so marshalling the material to draft the grounds took time because of the sheer volume of documentation. I do not dispute the volume of documents for the trial, but only a very small proportion of them were relevant to the two grounds of appeal and would have been previously itemised in regard to submissions made to the trial judge, which have been set out extensively above." 11. 12. 13. The determining officer described the allowed rate of £70, rather than £100, as being a rate which he considered to be reasonable, but does not expand upon that consideration. Counsel's second note for taxation, in which he requested a reconsideration, succinctly stated that in his view, "the fees paid to do not reflect the amount of work required properly to prepare this case." In his third note for taxation, counsel took issue with two elements of the written reasons. The first concerned the amount of time taken, particularly given the delay involved in the case following conviction. The need to perfect the advice on grounds of appeal against conviction, counsel says took as long as it did "because [he] was required to read voluminous transcripts." Counsel's second point concerned a comment in the written reasons where the determining officer indicates that counsel was familiar with the facts and issues arising and had already rehearsed the appeal arguments before the trial judge. Counsel describes this as the determining officer falling into error. The appeal arguments were SENIOR COSTS JUDGE ROWLEY Approved Judgment R v

Murphy 14. 15. 16. 17. 18. not rehearsed before the trial judge and to do so would have been improper at any point. In respect of counsel's third note for taxation, it seems to me that neither of the points he makes actually has any bearing on the determining officer's conclusions. In particular, the determining officer has allowed all of the time claimed for perfecting the advice and appeal grounds, and as such the extent of the materials, voluminous or otherwise, is irrelevant since there is no dispute about the amount of time taken. The same point applies to the determining officer's comments about rehearsing arguments that counsel had made before. I am not actually convinced that the determining officer was suggesting that those arguments had been put in quite the way that counsel has interpreted it. But, as I say, it does not matter in terms of the amount of time having been allowed. Counsel does not dispute in any of the documentation on this appeal (which is being decided without any attendance on an appeal hearing in accordance with counsel's selection in the Form A document) the reduction in the time claimed for the original advice and grounds of appeal against conviction. It seems to me that the determining officer's reasoning and judgment of a reasonable period of time being in the region of six hours is one borne of his long experience of comparing similar documentation and times claimed for preparing it. His comprehensive description of events demonstrates that he clearly got to grips with the issues involved in this case. Counsel does not dispute the reduction in the hourly rate either, but it seems to me that the determining officer's reasoning for the reduction in the hourly rates is more difficult to justify. There is only the express statement that the determining officer considered the figure of £70 per hour to be reasonable without any similarly express statement as to why the £100 claimed was unreasonable. The comment regarding rehearsing appeal arguments before the trial judge follows on from the determining officer's statement and it may be that this is intended to indicate why a lower hourly rate was appropriate. Whatever is the case, it does not seem to me that the reduction has been justified in what was plainly a serious matter involving complex issues regarding capacity and its effect both on events regarding the conspiracy and on the subsequent factors to be taken into account in sentencing upon conviction. Since the second note for taxation echoes the test of whether the sums allowed provide reasonable remuneration, it seems to me that the overall fee needs to be considered. In the absence of any explanation of the reduction in the hourly rate, it seems to me that the first fee, which has been reduced in both time and rate, does not provide reasonable remuneration at £400 plus VAT. I consider that £600 plus VAT, effectively reinstating the hourly rate, does provide reasonable remuneration and the fee should be increased accordingly. Similarly, the reduction in the second fee from £2,100 to £1,450 where the time claimed has been allowed in full when considering the fee, does not allow for reasonable remuneration either. Given the work done, the complexity of the matters in a serious case, it seems to me that the fee claimed of £2,100 does no more than provide reasonable remuneration and as such I allow that figure. 19. As a result, counsel has been successful in his appeal and is entitled to a contribution to his costs of this appeal, including reimbursement of the court fee.

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