

GFS Appeals Committee

R-v- [REDACTED]

Appeal of [REDACTED]

1. Introduction

This case was listed for trial at [REDACTED] Crown Court on 11th April 2016. The trial concluded on 10th May 2016, when the jury were discharged and the case adjourned for a retrial.

Prosecution advocates were - [REDACTED], Leading counsel and [REDACTED] Junior counsel.

Both appellants have appealed the CPS determination of the graduated fee paid for this trial.

The CPS determined that this trial should be paid as a standard base fee case. Both appellants have appealed that decision and have maintained that the case should have been paid as an enhanced base fee.

The issue at dispute was that evidence was informally served during the course of the trial that was not accompanied by a formal Notice of Additional Evidence front sheet. If the additionally served material were to be added to the page count it would take the case into the enhanced base fee.

The appellants have submitted that a formal Notice of Additional Evidence was not prepared at the time due to the demands placed on them in this case and the circumstances in which the jury were discharged bringing the trial to a premature end. The appellants have submitted that it was impracticable for them to get the material served under cover of a Notice of Additional Evidence during the course of the main hearing.

The appellants have further stated that very shortly after the main hearing, considerable efforts were made to ensure that all of the material relied upon in the trial was formally served and have submitted that in all the circumstances it would be unfair for counsel not to be paid at the enhanced rate.

The Appeals Committee have considered the Formal Notice of Intention to Appeal document forwarded by [REDACTED] and [REDACTED] dated 4th November 2016, the final written reasons letter from [REDACTED], Area Business Manager of CPS London, dated 12th December 2016 and the relevant guidance as set out in the Graduated Fees manual of Guidance dated March 2012.

2. Findings

The Committee find that the relevant guidance in relation to this matter is set out in the Manual of Guidance at paragraphs 61, 62 and 70, reproduced here for ease of reference.

61. The number of pages formally served in evidence in a case determines whether the advocate receives the 'standard' or the 'enhanced' base fee.
62. Only pages formally served in evidence and copied to all parties either as part of the original committal / send / transfer bundles or subsequently served under a written notice of additional evidence (NAE) can be counted, subject to paragraphs 66-68
70. The number of pages to be counted is the number of pages which have been formally served at the time of each main hearing.

The Committee consider that despite the demands placed upon the appellants during the trial, this was not a short trial and there would have been opportunities to request that the Paralegal Officer assigned to the case prepare and serve a formal Notice of Additional Evidence. The appellants have conceded in their application that they did not do this.

For the reasons outlined above this appeal is dismissed.

3. Other issues

The Committee commented that there should be guidance in relation to the late serving of material during trial for advocates and CPS staff. The Committee also felt that the CPS should look into practical difficulties raised by the appellants in this case in relation to obtaining formal Notices of Additional Evidence for material served at court during trials.

Date – 6th February 2017