

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: COMPENSATION OF CJA PANEL
ATTORNEYS FOR WORK PERFORMED IN
A SECTION 2255 PROCEEDING RELATED
TO AN ORIGINAL REPRESENTATION

Administrative Order
No. 18-MS-021

This Court is committed to ensuring that indigent defendants in criminal prosecutions receive effective representation, and that appointed counsel receive fair compensation for their efforts. The two commitments are integrally related because fair compensation is essential to recruiting and retaining qualified CJA Panel attorneys.

The Court has learned that post-conviction practice can leave a compensation gap. A motion to vacate, set aside or correct a sentence under Section 2255 regularly raises claims of ineffective assistance of trial counsel. To evaluate such a claim, the government or the Court must normally request that trial defense counsel provide information, documents, and an affidavit. Occasionally live testimony may be required. This all necessarily takes time and effort on the part of trial counsel whose representation is at issue in the Section 2255 proceeding. Without that time and effort, neither the government nor the Court can properly assess the claim of ineffective assistance.


Congress authorizes appointment of counsel for indigent persons who challenge their criminal sentences in a Section 2255 action whenever the court determines “that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B). The Guide to Judiciary Policy repeats this authorization and provides maximum compensation levels for such representation, over and above any original representation. Guide, Volume 7A (Defender Services) at Section 210.20.20(a); 230.23.20. This District’s approved CJA Plan implements these provisions.

The purpose of this Administrative Order is to record the Court’s determination that “the interests of justice” require compensation for the work that trial defense counsel necessarily perform in response to the government’s or the Court’s request for information and assistance in a Section 2255 proceeding that includes a claim of ineffective assistance of counsel. The Court will consider the work as a new appointment in the Section 2255 proceeding for the limited purpose of providing the information necessary to assess the validity of the ineffective assistance claim in the proceeding.

Trial defense counsel should submit a new CJA 20 voucher for these activities. In the typical case, the Court does not expect that more than 10 hours of service, or more than \$250 in expenses would be required. *See Dible v. United States*, 2010 WL 2652202 (N.D. Iowa 2010). But, of course, all such vouchers remain subject to the assigned Judicial Officer’s final review and approval, depending on the particular circumstances of each case.

IT IS SO ORDERED.

Dated: March 2, 2018



ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE