

DEC 06 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PABLO REYNA,

Plaintiff - Appellant,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant - Appellee.

No. 12-15240

D.C. No. 1:09-cv-01970-SMS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Sandra M. Snyder, Magistrate Judge, Presiding

Submitted December 4, 2013**
San Francisco, California

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Pablo Reyna appeals the district court's order granting attorney fees pursuant to 28 U.S.C. § 2412(d)(1)(A). Reyna challenges the district court's reduction of hours requested by one of his attorneys, Ralph Wilborn, from 47.25 to

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

28 hours for time spent drafting the informal, opening, and reply briefs filed with the district court. We have jurisdiction pursuant to 28 U.S.C. § 1291 and affirm.

We review the district court's calculation of reasonable hours for an abuse of discretion. *Costa v. Comm'r*, 690 F.3d 1132, 1135 (9th Cir. 2012). The district court, which had a superior understanding of this case, was in the best position to judge the reasonableness of counsel's billed time. *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 949 (9th Cir. 2007).

Contrary to Reyna's assertion, the district court applied the correct law and considered the correct factors when it determined the reasonableness of the attorney's hours. *Costa*, 690 F.3d at 1135; *Hensley v. Eckerhart*, 461 U.S. 424 (1983). The district court had the discretion to exclude "excessive, redundant, or otherwise unnecessary" hours. *Hensley*, 461 U.S. at 434, 436.

The district court also sufficiently stated why the billed hours were excessive in this case. *Costa*, 690 F.3d at 1136-37; *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008). The district court explained that the issues in the informal and opening briefs overlapped and the briefs wasted court time because they failed to winnow the issues, emphasize the strong arguments, and discuss the most relevant law. Counsel's block billing made it difficult to separate the time spent writing from the time spent reviewing the record. The briefs also raised

numerous alternative arguments that the court did not consider and found to be unfocused and unnecessary. In addition, the reply brief was overlong, two and a half times longer than the response brief. The district court explained that it independently researched the critical dispositive issue, whether Reyna has established an onset of his mental disability before age 22, found the relevant law not discussed in the briefs, and resolved the case at step three of the sequential evaluation. Contrary to Reyna's assertion, the record supports the district court's decision. The district court did not abuse its discretion.

AFFIRMED.