

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LARRY HARRIS #N-57672,

Plaintiff,

vs.

KIM BUTLER, *et al.*,

Defendants.

Case No. 14-cv-0498-SMY-PMF

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff's Objection to the Ruling by Magistrate Judge Frazier (Doc. 97) and Defendants' Motion to Stay Reimbursement of Expenses (Doc. 123). Plaintiff contends Judge Frazier's Order at Doc. 95 is clearly erroneous and he seeks additional expenses to be reimbursed to him. Defendants responded (Doc. 108) that the expenses being sought by Plaintiff are "far in excess of what could reasonably be expected to be incurred in making [the] motion to compel (Doc. 81)." Doc. 108, p. 1-2. Defendants do not object to Magistrate Judge Frazier's award of \$51.54, but seek to stay reimbursement to Plaintiff for a period of 60 days (Doc. 123).

Federal Rule of Civil Procedure 72(a) directs the Court to consider objections to magistrate orders and to "modify or set aside any part of the order that is clearly erroneous or is contrary to law." An award of reasonable expenses is governed by Fed. R. Civ. P. 37(a)(5), which states:

If the motion [to compel discovery] is granted--or if the disclosure or requested discovery is provided after the motion was filed--the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's *reasonable expenses incurred in making the motion*, including attorney's fees.

Fed. R. Civ. P. 37 (emphasis added).

Here, Plaintiff claims Judge Frazier “[took] it upon himself to object to the bill of cost.” Doc. 97, p. 5. However, the Order (Doc. 95) explicitly states the reason for reducing the expenses sought in Plaintiff’s affidavit (Doc. 81) —the affidavit was “not restricted to the expenses incurred in making his motion but describes all of his litigation expenses.” Therefore, Plaintiff’s Objection (Doc. 97) is **OVERRULED**.

Further, for lack of good cause shown, Defendants’ Motion to Stay Reimbursement of Expenses (Doc. 123) is **DENIED**. Defendants shall reimburse \$51.54 to Plaintiff pursuant to the Order at Doc. 95 without delay.

**IT IS SO ORDERED.**

**DATE: March 14, 2016**

*s/ Staci M. Yandle*  
**STACI M. YANDLE**  
**DISTRICT JUDGE**