

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF NORTH CAROLINA
 WESTERN DIVISION
 No. 5:13-CV-585-D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 \$98,699.60 IN U.S. CURRENCY,)
)
 Defendant.)

ORDER

On February 23, 2017, following a bench trial, this court held that the United States of America (“the government”) had proven its case and ordered the forfeiture of the defendant property [D.E. 144]. On March 7, 2017, the government filed a motion for a bill of costs [D.E. 146] and a supporting memorandum [D.E. 147]. On March 11, 2017, claimant Kenneth Lamont Clark (“claimant”) responded in opposition [D.E. 148]. On March 17, 2017, the government moved to strike claimant’s response [D.E. 150] and filed a supporting memorandum [D.E. 151]. As explained below, the court grants the government’s motions.

I.

In its bill of costs, the government requests \$6,937.75 under 28 U.S.C. § 1920(2) and \$758.61 under 28 U.S.C. § 1920(3). See [D.E. 146]; [D.E. 147] 1, 6. Section 1920(2) permits a party to recover “[f]ees for printed or electronically recorded transcripts necessarily obtained for use in the case.” 28 U.S.C. § 1920(2). The government requests costs related to seven depositions taken in this case. See [D.E. 147] 1–5. Specifically, the government seeks to recover the court reporters’ appearance fees and the costs of printing the original transcripts. See [D.E. 147-1 through 147-8]. (invoices for deposition-related costs). Given the integral role the deposition testimony played at

trial, the depositions and accompanying transcripts were “necessarily obtained for use in the case.” Cherry v. Champion Int’l Corp., 186 F.3d 442, 449 (4th Cir. 1999); see LaVay Corp. v. Dominion Fed. Sav. & Loan Ass’n, 830 F.2d 522, 528 (4th Cir. 1987); Petersen v. Midgett, No. 2:12-CV-60-D, 2015 WL 7681257, at *4 (E.D.N.C. Nov. 25, 2015) (unpublished). The costs appropriately “include only the reporter’s fee and charge for the original transcript of the deposition.” Local Civil Rule 54.1(c)(1)(a); see Boykin Anchor Co. v. AT & T Corp., No. 5:10-CV-591-FL, 2014 WL 4798726, at *2 (E.D.N.C. Sept. 26, 2014) (unpublished). Thus, the court awards the government \$6,937.75 in costs related to the depositions.

Section 1920(3) permits a party to recover “[f]ees and disbursements for printing and witnesses.” 28 U.S.C. § 1920(3). The government seeks mileage and parking expenses for a fact witness, and travel, lodging, and subsistence expenses for an expert witness. See [D.E. 147] 6–8. For both witnesses, the government requests the \$40 per day attendance fee available to witnesses under 28 U.S.C. § 1821(b). The court grants these requests. See 28 U.S.C. § 1821(b), (c)(1)–(c)(4); see also Local Civil Rule 54(c)(1)(c). Thus, the court awards the government \$758.61 in costs related to the government’s trial witnesses.

The government also has moved to strike claimants’s response in opposition to the government’s bill of costs. The government contends that claimant violated Local Civil Rule 83.1 when filing his response. Local Civil Rule 83.1(d) requires litigants in civil actions to “be represented by at least one member of the bar of this court who shall sign all documents filed in this court.” Claimant’s counsel, Abdulhakim Saadiq, is not a member of this court’s bar. See [D.E. 7]. As such, Local Civil Rule 83.1(d) required that a member of this court’s bar sign claimant’s response in opposition. Clifton J. Gray, III, (“Gray”) signed claimant’s response. Gray previously entered an appearance as Local Civil Rule 83.1 Counsel to bring claimant in compliance with Local Civil Rule

83.1. See [D.E. 19]. On September 12, 2016, the North Carolina State Bar suspended Gray's law license for five years. See Order of Discipline, <http://www.ncbar.gov/orders/gray,%20III%20Clifton%20J%20Order%20of%20Disc.pdf> (last visited on July 21, 2017). On March 11, 2017, when Gray signed claimant's response in opposition Gray could not have acted as Local Civil Rule 83.1 Counsel. Thus, claimant's response failed to comply with Local Civil Rule 83.1, and the court grants the government's motion to strike the response.

II.

In sum, the court GRANTS the government's motion for a bill of costs [D.E. 146] and AWARDS the government \$7,696.36. The court GRANTS the government's motion to strike [D.E. 150].

SO ORDERED. This 21 day of July 2017.



JAMES C. DEVER III
Chief United States District Judge