

STATE OF MICHIGAN
COURT OF APPEALS

In re ATTORNEY FEES OF ALONA SHARON

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

ERIC DEVON MASTERS,

Defendant,

and

ALONA SHARON

Appellant.

UNPUBLISHED
February 27, 2018

No. 336408
Kent Circuit Court
LC No. 15-001778-FC

Before: MURPHY, P.J., and O'CONNELL and K. F. KELLY, JJ.

PER CURIAM.

Appellant, Alona Sharon, appeals as of right the trial court's order denying her motion for extraordinary attorney fees. We reverse and remand for further proceedings.

On June 8, 2016, Sharon was appointed appellate counsel for defendant, Eric Devon Masters, following his guilty plea to multiple counts of criminal sexual conduct. She consulted with defendant, conducted research, and prepared and filed defendant's delayed application for leave to appeal. Sharon then mailed to the trial court a completed Michigan Appellate Assigned Counsel Statement of Service and Order for Payment of Court Appointed Counsel with the box checked indicating that the form was accompanied by a motion for extraordinary attorney fees. On the form, Sharon reported the hours that she worked in each applicable category and reported working a total of 19.05 hours on the matter. She requested payment of \$1,047.75 in attorney fees. Sharon also filed a separate formal motion for extraordinary fees with the trial court. She argued that she spent reasonable time to perform the work on defendant's behalf and asserted that she was entitled to payment for all the time and labor she expended beyond Kent County's \$660 capped compensation for guilty plea cases. Sharon explained that defendant's application for leave to appeal raised an unfamiliar legal issue that required additional research to find relevant and analogous caselaw to support defendant's application. She stated that the matter

required that she meet with defendant, hold a telephone conference with him, review his file, and have several telephone conferences with defendant's trial counsel. Sharon waived oral argument in front of the trial court. And the court denied Sharon's motion without comment. The trial court merely wrote "Denied" under the line item on the form that indicated a motion for extraordinary fees was attached. The trial court awarded Sharon the county's flat fee of \$660 for attorney fees. This appeal followed.

In *In re Attorney Fees of John W Ujlaky*, 498 Mich 890 (2015), the Michigan Supreme Court stated:

On order of the Court, the application for leave to appeal the October 23, 2014 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals as to Docket No. 316494, and we REMAND this case to the Kent Circuit Court for a determination of the reasonableness of the attorney fees requested. The trial court applied the county's fee schedule, which capped compensation for plea cases at \$660, but did not address at all the reasonableness of the fee in relation to the actual services rendered, as itemized by the appellant. Although the expenditure of any amount of time beyond that contemplated by the schedule for the typical case does not, *ipso facto*, warrant extra fees, spending a significant but reasonable number of hours beyond the norm may. On remand, the trial court shall either award the requested fees, or articulate on the record its basis for concluding that such fees are not reasonable. [Citations omitted.]

Here, we likewise remand to the trial court for the court to either award the requested attorney fees which appear reasonable to this panel, or, if the extra fees are not awarded, articulate on the record or in writing the basis for determining that such fees are not reasonable.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ William B. Murphy

/s/ Peter D. O'Connell