

198 F.3d 245

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA6 Rule 28 and FI CTA6 IOP 206 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Sixth Circuit.

Everett HADIX, et al., Plaintiffs-Appellees,

v.

Perry M. JOHNSON, et al., Defendants-Appellants.

Gary KNOP, et al., Plaintiffs-Appellees,

v.

Perry M. JOHNSON, et al., Defendants-Appellants.

Nos. 97-1610, 97-1611. | Nov. 10, 1999.

Before KENNEDY, GUY, and CLAY, Circuit Judges.

### Opinion

#### ORDER

\*1 The defendants appeal the district court's opinion entered upon the plaintiffs' motions for attorneys' fees for the time period between January 1, 1996 and December 31, 1996. After the appellate briefing had been completed, these cases were placed into abeyance pending the Supreme Court's decision in *Martin v. Hadix*, 119 S.Ct. 1998 (1999). Now these appeals are before the court on a stipulation filed by the defendants-appellants and plaintiffs-appellees. That stipulation states, in whole:

Defendants-Appellants, and Plaintiff-Appellees stipulate to the dismissal of Defendants-Appellants Argument II, in the above captioned appeals, such stipulation conditioned upon a decision by the Sixth Circuit favorable to Defendant with respect to Argument I, of the above captioned appeals consistent with the decision of the United States Supreme Court in *Martin v. Hadix*, No. 98-262, decided June 21, 1999.

Subsequent to the filing of the stipulation, plaintiffs' counsel wrote to this court requesting "that the Court enter an order modifying the decision of the district court to mandate an hourly rate of \$112.50 per hour, consistent with the decision in *Martin v. Hadix*, for the period April 27, 1996- December 31, 1996."

In *Martin v. Hadix*, the Supreme Court addressed the cap on attorney's fees created by the Prison Litigation Reform Act of 1995 (PLRA). Section 803(d)(3) of the PLRA amended 42 U.S.C. § 1997e(d)(3) to limit the hourly rate permitted in any action brought by a prisoner in which attorney's fees are authorized under 42 U.S.C. § 1988. Pursuant to that amendment, "[n]o award of attorney's fees ... shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of Title 18, for payment of court-appointed counsel." In the instant case, that hourly rate would be \$112.50. This section was effective upon the date of enactment, April 26, 1996. The Court held in *Martin* that "[w]ith respect to postjudgment monitoring performed after the effective date the PLRA fees cap applies to such work." *Martin v. Hadix*, 119 S.Ct. at 2008.

In view of *Martin v. Hadix*, the appropriate hourly rate for attorney work for the period from April 27 to December 31, 1996 is \$112.50. The defendants-appellants have withdrawn all other aspects of these appeals.

Therefore, the decision of the district court is AFFIRMED IN PART and REVERSED IN PART, and this matter is remanded for further proceedings consistent with this order.

**Hadix v. Johnson, 198 F.3d 245 (1999)**

**Parallel Citations**

1999 WL 1045084 (C.A.6 (Mich.))