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Sixth Angel Shepherd Rescue v. George Bengal

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 13-3988 and 13-4092

SIXTH ANGEL SHEPHERD RESCUE, INC;
TERRY ELIZABETH SILVA

v.

GEORGE BENGAL; NICOLE WILSON; PENNSYLVANIA SPCA

Sixth Angel Shepherd Rescue, Inc.,
Appellant in No. 13-3988

George Bengal, Nicole Wilson, and Pennsylvania SPCA
Appellants in No. 13-4092

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
District Court No. 2-10-cv-01733
District Judge: The Honorable Berle M. Schiller

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
October 9, 2015

Before: FUENTES, SMITH, and BARRY, *Circuit Judges*

JUDGMENT ORDER

This cause came on to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted on October 9, 2015.

The cross-appeals in this civil rights action challenge the District Court’s resolution of a motion for attorney fees and costs under 42 U.S.C. § 1988. George Bengal, Nicole Wilson, and the Pennsylvania SPCA, defendants in the District Court, conceded that Sixth Angel Shepherd Rescue, Inc., was entitled to attorney’s fees and costs. Nonetheless, the defendants objected to several aspects of Sixth Angel’s fee petition. The District Court thoughtfully considered the motion and its opposition in a well-reasoned decision in which it reduced the amount of the requested award. These timely appeals followed.¹

Sixth Angel contends that the District Court erred in several respects by: (1) reducing counsel’s hourly rate; (2) striking time expended by counsel; (3) refusing to consider an updated fee petition; (4) denying a multiplier for the delay endured; and (5) rejecting as compensable certain costs.² The defendants also claim that the District Court erred by failing to account for Sixth Angel’s limited success.

“We review the reasonableness of an award of attorney’s fees for an abuse of discretion.” *Washington v. Phila. Cnty. Court of Common Pleas*, 89 F.3d 1031, 1034 (3d Cir. 1996). After reviewing the record in this matter and the thorough opinion of the District Court, we conclude that the District Court did not err in granting in part and

¹ The District Court had jurisdiction under 28 U.S.C. §§ 1331 and 1367. Appellate jurisdiction exists under 28 U.S.C. § 1291.

² Sixth Angel’s opening brief also asserts that the District Court erred by failing to address the state court proceeding. We need not address this issue because, contrary to the requirements of Fed. R. App. P. 28(a)(8), Sixth Angel did not present citations to the

denying in part the motion for attorney's fees and costs. Accordingly, for substantially the same grounds set forth in the District Court opinion, we will affirm the District Court's September 23, 2013 order.

On consideration whereof, it is now hereby ADJUDGED and ORDERED that the order of the District Court entered September 23, 2013, be and the same is hereby AFFIRMED. The parties shall bear their own costs.

By the Court,

s/D. Brooks Smith
Circuit Judge

Attest:

s/Marcia M. Waldron
Clerk

DATED: November 4, 2015

legal authority and the parts of the record on which it relies. *See Kost v. Kozakiewicz*, 1 F.3d 176, 182 (3d Cir. 1993).