

201 F.3d 443 (Table), 1999 WL 840547 (9th Cir.(Or.)) Unpublished Disposition

Briefs and Other Related Documents

NOTICE: THIS IS AN UNPUBLISHED OPINION.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 Use FI CTA9 Rule 36-3 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Ninth Circuit.

**Robert BLANCHARD, Plaintiff-Appellant,**  
**v.**  
**Kenneth S. APFEL, Commissioner of the Social Security Administration,**  
**Defendant-Appellee.**

No. 98-35670.  
D.C. No. CV-96-03049-HO.

Submitted, Sept. 13, 1999. [FN2]

FN2. The panel unanimously finds this case suitable for decision without oral argument. See Fed. R.App. P. 34(a)(2).

Decided Sept. 13, 1999.

Appeal from the United States District Court for the District of Oregon, Michael R. Hogan, Chief District Judge, Presiding.

Before ALDISERT, [FN3] KLEINFELD, and W. FLETCHER, Circuit Judges.

FN3. The Honorable Ruggero J. Aldisert, Senior Circuit Judge for the Third Circuit, sitting by designation.

MEMORANDUM [FN1]

FN1. This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

\*\*1 Mr. Wilborn's argument in support of his appeal of the district court's award of \$7,133.75 attorneys' fees makes some persuasive points.

But the argument is not addressed to our discretion. The district court had the discretion, and we can review only for abuse of discretion. *Allen v. Shalala*, 48 F.3d 456, 457 (9th Cir.1995). Under that standard, we must affirm.

Though Wilborn makes some good arguments against the lodestar rate used by the district court, \$125 per hour, there were also sensible arguments for it. The district judge was within his discretion in using a lower lodestar rate because he thought too many hours had been put into the case relative to its difficulty and size, and in using the multiplier he did.

Wilborn argues that the district court erred in failing to consider two recent cases: the Ninth Circuit's opinion in *Widrig v. Apfel*, 140 F.3d 1207, and an apparently unpublished decision from the United States District Court for the District of Oregon, *Blair v. Chater*, Civ. No. 95-6135-HA (D.Or.). Neither case establishes a precedent in conflict with what the district court did (of course the unpublished district court case cannot). That Mr. Wilborn might have received an attorney's fee award in another case calculated in a different way does not establish that in this case it was an abuse of discretion not to do it the same way.

AFFIRMED.

C.A.9 (Or.),1999.

*Blanchard v. Apfel*

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