

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

UNITED STATES OF AMERICA,

v.

FELIX CRUZ,

Defendant.

1:04-cr-00105-WAL-EAH

TO: Javier A. Cuyar Olivo, Esq.

ORDER

THIS MATTER comes before the Court on the Motion for Leave to File CJA-20 Voucher filed by Attorney Javier A. Cuyar Olivo on January 6, 2026. Dkt. No. 1231. In the motion, Attorney Cuyar Olivo seeks leave to file a CJA-20 voucher outside the 45-day deadline prescribed by the Criminal Justice Act. *Id.* The Court has reviewed the motion and the record and writes to clarify the applicable procedure and the basis for granting this motion.

Attorney Cuyar Olivo was appointed on January 26, 2024, under the Criminal Justice Act ("CJA"), 18 U.S.C. § 3006A, to represent Defendant Felix Cruz. Dkt. No. 1029. His representation concluded when the Court granted his motion to withdraw on August 25, 2025. Dkt. No. 1203. Claims for compensation of CJA Panel Attorneys in non-capital cases must be submitted on the appropriate CJA forms through the Court's eVoucher system and, absent good cause, must be filed no later than 45 days after final disposition of the case. *See Guide to Judiciary Policy, Vol. 7, Defender Services, Part A Guidelines for Administering the CJA and Related Statutes, Chapter 2: Appointment and Payment of Counsel, § 230.13* (hereinafter

United States v. Berrios
1:04-cr-00105-WAL-EAH
Order
Page 2

“Guide”). Because counsel’s representation ended on August 25, 2025, the deadline to submit the appropriate CJA compensation forms for final payment was October 9, 2025.

As a threshold matter, the Court clarifies the distinct roles of the CJA-26 and the CJA-20 forms. A CJA-26 is not a request for payment. Rather, it is a request for authorization to exceed the statutory case compensation maximum. A CJA-20 is the voucher through which counsel seeks payment for services rendered. Consequently, in non-capital cases where counsel anticipates that representation will exceed the statutory case compensation maximum, a CJA-26 request for excess compensation should be submitted *before the work is performed and before the statutory cap is exceeded*. District Court of the Virgin Islands Financial Services Team, *CJA eVoucher Attorney Training*, 31 (May 16, 2025, Dist. Ct. V.I., <https://www.vid.uscourts.gov/sites/vid/files/2025CJAeVoucherAttorneyTraining.pdf>) (emphasis added). If the process is followed correctly, a CJA-20 voucher will be submitted only at the conclusion of representation, unless the Court has authorized interim payments.

By contrast, where counsel submits a CJA-26 *after* the work has already been performed and the statutory cap has already been exceeded, the CJA-26 must be accompanied by a completed, itemized CJA-20 voucher so that the Court may evaluate the compensability and reasonableness of the time claimed. District Court of the Virgin Islands Criminal Justice Felony Appointment Manual (“CJA Felony Appointment Manual”), § 4(3).

Here, counsel’s submission fell into the latter category. Attorney Cuyar Olivo filed a CJA-26 request for excess compensation on October 6, 2025, after he had already performed the work exceeding the statutory compensation cap. Dkt. No. 1231. Therefore, submission of an itemized CJA-20 voucher was mandatory. *See* CJA Felony Appointment Manual, § 4(3).

United States v. Berrios

1:04-cr-00105-WAL-EAH

Order

Page 3

However, the CJA-26 form he initially submitted did not include the required itemized CJA-20 voucher, rendering the filing incomplete. *Id.*; *see also* Dkt. No. 1231.

On October 7, 2025, this Court approved the CJA-26 at the initial level and expressly instructed counsel, in the public comments, to “immediately file his CJA-20 voucher” so that the Court could assess the compensability and reasonableness of the time claimed.¹ Dkt. No. 1231-1 at 3. At that point, two days remained before the October 9, 2025 deadline. Counsel did not cure the deficiency within that time, nor did he file a motion for an extension of time to file his CJA-20 voucher. As a result, the submission of the CJA-26 voucher proceeded through the normal course for final approval by the District Judge. Counsel represents that he attempted to submit the CJA-20 voucher on November 9, 2025, Dkt. No. 1231, although the eVoucher system reflects a submission date of November 14, 2025 instead. That submission was rejected because it was untimely and a CJA-26 was pending final approval by the District Judge. Counsel’s delay was inconsistent with the Guide, which provides that “[e]very effort should be made to have counsel submit the claim as soon as possible upon completion of services rendered.” Guide, § 230.13(a). It was also inconsistent with the Court’s October 7, 2025 instruction to “file the CJA-20 voucher immediately.” Dkt. No. 1231-1 at 3. Consequently, without a Court order, counsel would have to wait for the District Judge’s final approval of the CJA-26 before submitting the CJA-20 voucher for final payment,

¹ In this District, CJA vouchers are approved in two steps: first by the Magistrate Judge, then by the District Judge for final approval. Criminal Justice Act Plan, DIST. V.I., Section XII.B.3, (2022), <https://www.vid.uscourts.gov/sites/vid/files/CJA%20Plan%20Revised%202022.pdf>. Here, the Magistrate Judge approved the CJA-26 because the statutory case compensation maximum had already been reached when counsel entered as successor counsel, but counsel still was required to submit a timely, itemized CJA-20 voucher to obtain payment for services rendered.

United States v. Berrios

1:04-cr-00105-WAL-EAH

Order

Page 4

if he had been authorized to do so out of time. On December 31, 2025, the District Judge authorized Attorney Cuyar Olivo's CJA-26 voucher. Following that authorization, on January 5, 2026, Attorney Cuyar Olivo submitted another CJA-20 voucher, which was returned again because more than 45 days had elapsed since the conclusion of his representation and no Court order authorized the late filing. Dkt. No. 1231. Counsel then filed the present motion seeking leave to file the CJA-20 voucher out of time. *Id.*

The Court's assessment of this request is informed by the broader procedural posture of the case and the circumstances of counsel's appointment. The record reflects that counsel was not the first CJA-appointed attorney in this matter. Dkt. Nos. 321, 560. By the time Attorney Cuyar Olivo began representing Defendant Cruz, compensation had already been paid to prior appointed counsel and the statutory cap had already been reached.² While counsel may not have known the precise amount of the compensation previously approved, given the age of this case, he could and should have anticipated that the statutory maximum had likely been exhausted. Where it can be anticipated that representation may exceed the statutory maximum, advance authorization for excess compensation should be sought. *See* Guide, § 310.20.20(b).

Additionally, while counsel filed his CJA-26 voucher three days before the deadline for submitting a CJA-20 voucher for payment, that filing provided very little time for the Court to complete the required two-step approval process. The Court was required to review and approve the CJA-26 request for excess compensation before a CJA-20 voucher for final

² The statutory case compensation maximum does not reset upon appointment of successor counsel. *See* Guide, § 230.56.

United States v. Berrios
1:04-cr-00105-WAL-EAH
Order
Page 5

payment could be considered, and both vouchers were subject to sequential review by the Magistrate Judge and final approval by the District Judge.

So, even if counsel had complied with the required procedures and attached an itemized CJA-20 to his initial CJA-26 submission, Attorney Cuyar Olivo would still have missed the deadline to file his CJA-20 voucher. This is so because the Criminal Justice Act's procedural framework presupposes that the Court will be afforded sufficient time to review vouchers for accuracy, reasonableness, and compliance with statutory and administrative requirements before authorizing payment, *see Guide, § 230.13*, and the Court could not have reviewed or approved the CJA-20 voucher until after the CJA-26 request had completed the two-step approval process. By that point, submission of the CJA-20 voucher for payment would have occurred outside the 45-day period, requiring leave of Court. However, counsel did not seek leave to file outside the deadline, even after the Court expressly advised him on October 7, 2025 that he had not properly followed the compensation procedures.

Again, while Attorney Cuyar Olivo did not strictly comply with the required compensation procedures, considering the nature of the work performed, and the circumstances surrounding counsel's appointment as successor counsel, the Court finds that good cause exists under Guide § 230.13(a) to permit the late filing. The governing guidelines permit relief notwithstanding counsel's procedural noncompliance. At the same time, the Court emphasizes that the procedures set forth in the Guide and the CJA Felony Appointment Manual are mandatory, not advisory. Counsel must timely submit complete filings, follow the required sequence of submissions, and promptly comply with court instructions, particularly where compensation is concerned.

United States v. Berrios

1:04-cr-00105-WAL-EAH

Order

Page 6

Accordingly, the Motion for Leave to File the CJA-20 Voucher, Dkt. No. 1231, is **GRANTED**. Attorney Cuyar Olivo must submit the CJA-20 voucher on the eVoucher system no later than **January 28, 2026**.

ENTER:

Dated: January 23, 2026

/s/ Emile A. Henderson III

EMILE A. HENDERSON III
U.S. MAGISTRATE JUDGE