

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

TIKISHIA R. RUSHING,

Plaintiff,

vs.

CAROLYN W. COLVIN,
Acting Commissioner, Social Security
Administration,

Defendant.

Case No. 12-CV-1-FHM

OPINION AND ORDER

Plaintiff seeks an award of attorney fees in the amount of \$4,132.30 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. [Dkt. 23]. The time has passed for the Commissioner to file an objection to Plaintiff's request, no objection has been filed, and in accordance with LCvR 7.2(e), the matter is deemed confessed.

The undersigned finds that the amount of the fee request is reasonable. Based on that finding, and the absence of any objection to the amount of the fee request, the undersigned finds that Plaintiff should be awarded EAJA fees in the amount of \$4,132.30. *Astrue v. Ratliff*, 130 S.Ct. 2521, 2524 (2010)(a §2412(d) fee award is payable to the litigant). Pursuant to the Commissioner's usual practice, the check should be made payable to Plaintiff and mailed to counsel's address. If Plaintiff's attorney receives the fees awarded herein and attorney fees are also awarded and received by counsel under 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act [Dkt. 23] is GRANTED as provided herein.

SO ORDERED this 2nd day of August, 2013.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE