

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

MARSHALL H. FOSTER, JR.,	)	
	)	
PLAINTIFF,	)	
	)	
v.	)	CASE NO. 3:05cv776-MEF
	)	
MICHAEL ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
DEFENDANT.	)	

**ORDER**

This cause is before the Court on the Petition for Approval of Attorneys Fees (Doc. # 20 filed on November 24, 2008 by counsel for Plaintiff Marshall H. Foster, Jr. By this motion, Plaintiff seeks an award of attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. Defendant opposed this motion arguing that the request was made outside the allowable time frame set forth in the EAJA. Specifically, the Defendant noted that the judgment became final in this case on March 11, 2007, and the EAJA requires the fee petition to be filed thirty days after that date. Although the Court invited Plaintiff to respond to this argument, he elected to remain silent. On January 14, 2009, the Chief United States Magistrate Judge filed a Recommendation (Doc. # 24) in this case in which she recommended that the petition for attorney’s fees be denied as untimely. Plaintiff made no effort to submit any objection to this Recommendation. The Defendant filed a notice pointing out a typographical error in the Recommendation which does not alter its basic legal soundness. Upon an independent review of the file in this case and upon

