

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

GARY MCANALLY

PLAINTIFF

V.

NO. 3:08CV00009 JTR

MICHAEL J. ASTRUE,
Commissioner, Social
Security Administration

DEFENDANT

ORDER

Pending before the Court is Plaintiff's Application for Attorney's Fees Under the Provisions of the Equal Access to Justice Act ("EAJA") (docket entry #13). Defendant has filed a Response (docket entry #14). For the reasons set forth herein, the Application will be granted.

On January 24, 2008, Plaintiff filed this action challenging the decision of an Administrative Law Judge ("ALJ") that denied him social security benefits (docket entry #2). On February 10, 2009, the Court entered a Memorandum and Order and a Judgment (docket entries #11 and #12) that remanded the case to the ALJ pursuant to sentence four of 42 U.S.C. § 405(g) and *Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

On May 8, 2009, Plaintiff's attorney, Mr. David Jerome Throesch, filed an Application for Attorney's Fees seeking payment under the EAJA for 23.50 hours of work performed by him at the rate of \$155.00 per hour (\$3,642.50). Defendant does not object to the Motion. However, on review, the number of hours itemized for attorney work by Mr. Throesch in his Application for Attorney's fees totals 23.20 hours, instead of 23.50. Therefore, 23.20 hours of attorney time

multiplied times the hourly rate of \$155.00 equals \$3,596.00.

Under these circumstances, the Court concludes that Plaintiff is entitled to an award of attorney fees under the EAJA, and that the amount requested by Plaintiff's attorney, after adjusting for the mathematical error, is reasonable. Accordingly, Plaintiff's attorney shall receive a total award of \$3,596.00, which includes 23.20 hours of attorney time at the rate of \$155.00 per hour.

IT IS THEREFORE ORDERED that Plaintiff's Application for Attorney's Fees and Other Expenses Under the EAJA (docket entry #13) is hereby GRANTED.

IT IS FURTHER ORDERED that the Commissioner shall certify and pay to Mr. David Jerome Throesch, attorney for Plaintiff, \$3,596.00, which has been awarded as attorney fees pursuant to the EAJA.

DATED this 19th day of May, 2009.


UNITED STATES MAGISTRATE JUDGE