

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

RUBBY GRAY

PLAINTIFF

vs.

Civil Case No. 3:08CV00195 HLJ

MICHAEL J. ASTRUE,
Commissioner, Social
Security Administration

DEFENDANT

ORDER

Now before the court is Plaintiff's Motion for an Award of Attorney's Fees and Other Expenses Under the Provisions of the Equal Access to Justice Act (EAJA) (DE #16). Plaintiff requests attorney's fees in the amount of \$1,417.21 for 5.80 attorney hours incurred in 2008-09 at \$175.00 per hour, and 5.15 paralegal hours incurred at \$75.00 per hour. Plaintiff also requests expenses in the amount of \$15.96.

The maximum statutory rate of compensation for work performed by an attorney set forth in § 2412(d)(2)(A)(ii) is \$125.00. The increased rates requested by Plaintiff reflect an agreement between Plaintiff's counsel and the Office of the General Counsel of the Social Security Administration (Plaintiff's Exhibit A) to calculate attorneys' fees on an annualized basis, using the Consumer Price Index for All Urban Consumers (CPI-U).

Normally the court awards \$65.00 per hour for work performed by a paralegal. Plaintiff argues the hourly fee for a paralegal should be \$75.00 per hour based on the prevailing market rate, and has

submitted supporting affidavits. See Richlin Security Services Co. v. Chertoff, Secretary of Homeland Security, 128 S.Ct. 2007, 2019 (2008) (holding that a "prevailing party that satisfies EAJA's other requirements may recover its paralegal fees from the Government at prevailing market rates"). The Secretary does not object to this request and the court presumes this increase is also part of the agreement between Plaintiff's counsel and the Office of the General Counsel. In addition, the Commissioner does not object to any fee award being paid directly to Plaintiff's attorney, pursuant to Ratliff v. Astrue, 540 F.3d 800 (8th Cir. 2008), petition for cert. filed, 77 U.S.L.W. 3619 (U.S. Apr 28, 2009)(No. 08-1322)(holding attorney's fees under EAJA are awarded to the prevailing parties' attorneys, and the Fourth Amendment prohibits the Government's withholding the fees to cover the parties' debts). Accordingly, the court approves an award of fees in the amount of \$1401.25 and expenses in the amount of \$15.96 to be paid to Plaintiff's attorney.

IT IS THEREFORE ORDERED that Plaintiff' motion for attorney's fees and expenses under EAJA in the amount of \$1417.21 (DE #16) is granted. The Commissioner is hereby directed to certify said award and pay Plaintiff's attorney this amount.

SO ORDERED this 30th day of September, 2009.



United States Magistrate Judge