

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

EZERA K. SMITH-PHILLIPS

PLAINTIFF

VS.

CASE NO. 4:07CV00626 SWW

**MICHAEL J. ASTRUE, Commissioner,
Social Security Administration**

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge Susan Webber Wright. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.

2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Now before the Court is the plaintiff’s motion for attorney’s fees under 42 U.S.C. § 406(b). The defendant has responded, and does not oppose the plaintiff’s request for a fee of \$2,743.75. The plaintiff’s request was for \$2,743.75 and “any current cost of living increase,” and the defendant opposes a fee beyond the stated amount. In addition, the defendant urges that any award be made payable to the plaintiff rather than her attorney.

We find that the request for fees in the amount of \$2,743.75 is reasonable, and recommend the motion for attorney’s fees under 42 U.S.C. § 406(b) be granted in that amount. We further recommend that the Commissioner certify and pay \$2,743.75 to plaintiff’s attorney, Mr. Todd G. Cockrill.

IT IS SO ORDERED this 14 day of October, 2008.

A handwritten signature in black ink, appearing to read "H. J. Jones", with a long horizontal flourish extending to the right.

UNITED STATES MAGISTRATE JUDGE