

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

MICHAEL E. HOPSON

PLAINTIFF

v.

CIVIL NO. 10-2080

MICHAEL J. ASTRUE, Commissioner
Social Security Administration

DEFENDANT

ORDER

On June 15, 2010, Plaintiff, Michael E. Hopson, appealed the Commissioner's denial of benefits to this Court. (Doc. 1). On May 17, 2011, Plaintiff filed a Motion to Remand for New Evidence. (Doc. 11). On June 9, 2011, the Court, granted Plaintiff's motion and remanded the case for further consideration pursuant to sentence six of 42 U.S.C. § 405(g). (Doc. 15). On September 8, 2011, Plaintiff's counsel filed a motion for an award of \$2,577.00 in attorney's fees and costs under 28 U.S.C. § 2412, the Equal Access to Justice Act (hereinafter "EAJA"), requesting compensation for 13.00 attorney hours of work before the Court at an hourly rate of \$174.00; and 4.20 paralegal hours of work before the Court at an hourly rate of \$75.00. (Docs. 16, 17). On September 21, 2011, Defendant filed a Response objecting to the request for attorney's fees under the EAJA as premature, because no final Judgment had been issued in the case. (Doc. 19).

Since there has been no determination that Plaintiff is a prevailing party in this matter and judgment in this case has yet to be entered, the Court finds Plaintiff's counsel is not entitled to attorney's fees at this time. See Shalala v. Schaefer, 509 U.S. 292 (1993). A claimant who obtains a "sentence six" remand is

not eligible for attorney's fees under EAJA until the results from the post-remand proceedings have been filed with the Court and judgment entered. Id. Accordingly, Plaintiff's motion for EAJA fees is hereby denied as premature.

IT IS SO ORDERED this 18th day of October 2011.

/s/ Erin L. Setser

HON. ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE