

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

TERRY D. KUYKENDALL

PLAINTIFF

vs.

Civil No. 2:11-CV-02165

MICHAEL J. ASTRUE
Commissioner, Social Security Administration

DEFENDANT

ORDER

Before the Court is the Report and Recommendation (Doc. 19) filed on October 30, 2012 by the Honorable James R. Marschewski, Chief United States Magistrate Judge for the Western District of Arkansas. Judge Marschewski recommends that Plaintiff's Motion for Attorney Fees Under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, be granted. Neither party has filed objections to the Report and Recommendation, and the time to object has passed. *See* 28 U.S.C. § 636(b)(1).

The Court finds that the Report and Recommendation is proper and should be and hereby is **ADOPTED IN ITS ENTIRETY**. Accordingly, the Court **ORDERS** that Plaintiff's Motion for Attorney Fees (Doc. 15) be **GRANTED** and finds that Plaintiff is entitled to an award under the EAJA in the amount of \$3,175.60. This award represents 16.90 attorney hours at an hourly rate of \$174.00 and 4.70 paralegal hours at an hourly rate of \$50.00. This amount should be paid in addition to, and not out of, any past due benefits which Plaintiff may be awarded in the future. Pursuant to *Astrue v. Ratliff*, 130 S. Ct. 2521, 2528 (2010), the EAJA award should be made payable to Plaintiff, but may be mailed to Plaintiff's counsel.

The parties are reminded that the award herein under the EAJA will be taken into account at such time as a reasonable fee is determined pursuant to 42 U.S.C. § 406 in order to prevent double

recovery by counsel for Plaintiff.

IT IS SO ORDERED this 4th day of December, 2012.

/s/ P. K. Holmes, III

P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE