

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

DANNY LANCE KOLB

PLAINTIFF

vs.

Civil No. 3:11-CV-03055

MICHAEL J. ASTRUE
Commissioner, Social Security Administration

DEFENDANT

ORDER

Before the Court is the Report and Recommendation (Doc. 15) filed on November 13, 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 period 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. 11) be **GRANTED** and finds that Plaintiff is entitled to an award under the EAJA in the amount of \$2,483.97.¹ This award represents 11.80 attorney hours for work performed in 2011 at an hourly rate of \$174.00, 2.30 attorney hours for work performed in 2012 at an hourly rate of \$180.00, and certified mail expenses of \$16.77. 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

¹ The conclusion of the Report and Recommendation recommends an award of \$2,855.70. This appears to have been a mistake, as elsewhere in the Report and Recommendation a total amount of \$2,483.97 is recommended. The Court has checked the calculation, and \$2,483.97 is the correct amount to be awarded in this case.

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 7th day of December, 2012.

P. K. Holmes, III

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