

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

BOBBI FLANIGAN

PLAINTIFF

V.

CASE NO. 3:21-CV-3049

**COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION**

DEFENDANT

OPINION AND ORDER

Now before the Court is the Report and Recommendation (“R&R”) (Doc. 21) of the Honorable Christy Comstock, United States Magistrate Judge for the Western District of Arkansas. Magistrate Judge Comstock recommends that the Court grant the Motion for Attorney Fees Under the Equal Access to Justice Act (Doc. 19), filed by the prevailing party in this case, Plaintiff Bobbi Flanigan. The Motion was filed on October 25, 2022. The Commissioner failed to file objections to the Motion within fourteen days, which meant the Motion was unopposed. Nevertheless, the Magistrate Judge completed an independent review of Ms. Flanigan’s request for fees and found that all hours claimed by her counsel were reasonably expended. See Doc. 21, p. 4.

On November 15, 2022, the Commissioner filed an Objection (Doc. 22) to the R&R that triggered the Court’s de novo review of the proceedings. See 28 U.S.C. § 636(b)(1)(C). The Commissioner had “no objection regarding Plaintiff’s prevailing party status, substantial justification, or the requested hourly rates” but claimed:

The 3.8 pre-complaint hours consisting of 3.2 hours on January 13, 2020 and 0.30 hours each on June 3 and June 25, 2021 are excessive (Doc 19-2 at 1). The Court should reduce the pre-complaint hours to 2 hours total and deduct the remaining 1.8 pre-complaint hours. *Pelts v. Colvin*, 2017 WL 1230855 (W.D. Ark. April 3, 2017).

(Doc. 22, p. 1).

Counsel for Ms. Flanigan explained in her brief in support of the Motion that “the record in this case was over 2000 pages in length” and the case “had been previously denied at four (4) levels of administrative review.” (Doc. 19-1, p. 6). The Court has reviewed the itemized bill and finds that 3.8 hours of pre-complaint legal work appears reasonable in view of the length and complexity of the record. Furthermore, the Commissioner’s bare contention that 3.8 hours is too much but 2 hours is just right is unsupported by argument or evidence. The Objection is therefore **OVERRULED**.

IT IS ORDERED that the R&R (Doc. 21) is **ADOPTED IN FULL**. The Motion for Attorney Fees Under the Equal Access to Justice Act (Doc. 19) is **GRANTED**. Plaintiff is awarded fees and costs in the total amount of **\$4,813.50**.

IT IS SO ORDERED on this 16th day of November, 2022.

/s/ Timothy L. Brooks
TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE