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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HERMAN T. CAYANAN,
Plaintiff,
v.
CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

Case No. EDCV 15-1414-KK

ORDER GRANTING MOTION FOR
ATTORNEYS' FEES UNDER THE
EQUAL ACCESS TO JUSTICE ACT

I.
INTRODUCTION

On August 24, 2016, Plaintiff's counsel, William M. Kuntz of William M. Kuntz, PLC ("counsel") filed a Motion for Attorneys' Fees Under The Equal Access to Justice Act ("Motion"). ECF Docket No. ("Dkt.") 23 at 1. The Motion seeks fees in the amount of \$3,754.25 and costs in the amount of \$400.00 for representing Plaintiff Herman T. Cayanana ("Plaintiff") in an action to obtain disability insurance benefits. *Id.* On September 7, 2016, Defendant Carolyn W. Colvin ("Defendant") filed a Memorandum In Opposition to Plaintiff's Motion ("Opposition"). Dkt. 24 at 1.

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1 The parties have consented to the jurisdiction of the undersigned United
2 States Magistrate Judge, pursuant to 28 U.S.C. § 636(c). Dkt. 9, 10. For the
3 reasons stated below, the Court grants the Motion.

4 **II.**

5 **RELEVANT BACKGROUND**

6 On July 15, 2015, Plaintiff filed the Complaint in this action. Dkt. 1 at 1. The
7 Complaint alleged the decision denying Plaintiff's claim was not in accordance with
8 the law and not supported by substantial evidence. Id. at 2. On May 31, 2016, the
9 Court found Defendant erred in denying Plaintiff disability insurance benefits, and
10 entered Judgment reversing and remanding for further administrative proceedings
11 pursuant to Sentence 4 of 42 U.S.C. § 405(g). Dkt. 22 at 1. The Court applied the
12 substantial evidence standard and held the decision of the Administrative Law
13 Judge ("ALJ") was unsupported by substantial evidence. Dkt. 21 at 9-20. The
14 Court found the ALJ failed to give specific, clear, and convincing reasons for
15 rejecting Plaintiff's testimony. Id.

16 On August 24, 2016, Plaintiff's counsel filed the instant Motion under the
17 Equal Access to Justice Act. Dkt. 23 at 1. The motion seeks the amount of
18 \$3,754.25 in fees and \$400.00 in costs incurred representing Plaintiff in the
19 underlying proceedings before this Court. Id. at 4. Counsel states 19.67 hours of
20 attorney time were expended, Id. at 4; Dkt. 23-1.

21 On September 7, 2016, Defendant filed her Opposition, arguing the Court
22 should deny the Motion because Defendant's position was "substantially
23 justified." Dkt. 24 at 1-13.

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1 III.

2 **DISCUSSION**

3 **A. The Equal Access to Justice Act Entitles Plaintiff To Fees**

4 **1. Applicable Law**

5 The Equal Access to Justice Act (“EAJA”) requires a court to “award to a
6 prevailing party other than the United States fees and other expenses . . . incurred
7 by that party in any civil action . . . unless the court finds that the position of the
8 United States was substantially justified or that special circumstances make an
9 award unjust.” 28 U.S.C. § 2412(d)(1)(A).

10 To challenge a request for EAJA fees, the government must show its position
11 was substantially justified. Meier v. Colvin, 727 F.3d 867, 870 (9th Cir. 2013).
12 Specifically, “the government’s position must have a ‘reasonable basis both in law
13 and fact.’” Meier, 727 F.3d at 870 (quoting Pierce v. Underwood, 487 U.S. 552,
14 565, 108 S.Ct. 2541, 101 L.Ed.2d 490 (1988)). The government’s position
15 comprises both the underlying agency action giving rise to the civil action and the
16 government’s litigation position. 28 U.S.C. § 2412(d)(2)(D); Tobeler v. Colvin,
17 749 F.3d 830, 832 (9th Cir. 2014).

18 With respect to a social security appeal, a court may treat an ALJ’s decision
19 as the underlying action. Meier, 727 F.3d at 870 (“[W]e have consistently treated
20 the ALJ’s decision as the action or failure to act by the agency upon which the civil
21 action is based”). A court’s holding an ALJ’s decision was unsupported by
22 substantial evidence is “a strong indication” the government’s position was not
23 substantially justified because the substantial evidence and substantially justified
24 standards are “significantly similar[.]” Id. at 872 (internal quotation marks
25 omitted); see Thangaraja v. Gonzales, 428 F.3d 870, 874 (9th Cir. 2005) (“[I]t will
26 be only a ‘decidedly unusual case in which there is substantial justification under
27 the EAJA even though the agency’s decision was reversed as lacking in reasonable,
28 substantial and probative evidence in the record’” (quoting Al-Harbi v. I.N.S., 284

1 F.3d 1080, 1085 (9th Cir. 2002))). If the ALJ’s decision lacked substantial
2 justification, the court must award fees and need not address whether the
3 government’s litigation position was justified. Tobeler, 749 F.3d at 832; see also
4 Sampson v. Chater, 103 F.3d 918, 922 (9th Cir. 1996) (“‘It is difficult to imagine
5 any circumstance in which the government’s decision to defend its actions in court
6 would be substantially justified, but the underlying administrative decision would
7 not.’” (quoting Flores v. Shalala, 49 F.3d 562, 570 n.11 (9th Cir. 1995))).

8 **2. Analysis**

9 Here, the ALJ’s decision was not substantially justified. Dkt. 21 at 9-20. For
10 the reasons set forth in the Court’s May 31, 2016 Order, the ALJ erred by failing to
11 give specific, clear, and convincing reasons for rejecting Plaintiff’s testimony. Id. at
12 10-20. The Court accordingly remanded with instructions to the ALJ to reassess
13 Plaintiff’s credibility and further develop the record. Id. at 21. In reaching its
14 conclusions, the Court applied the substantial evidence standard and held the
15 ALJ’s decision was unsupported by substantial evidence. Id. at 9-20. The Court
16 noted the ALJ made his determinations without taking into consideration
17 Plaintiff’s overall diagnostic record and by improperly relying on Plaintiff’s daily
18 activities. Id. at 10-20. Because the ALJ’s denial of benefits was not supported by
19 the record, the Court does not find the government has satisfied its burden of
20 showing the underlying action had a reasonable basis both in law and fact. Pierce,
21 478 U.S. at 565. Additionally, as the substantial evidence standard is significantly
22 similar to the substantially justified standard, the Court’s finding the ALJ’s
23 decision was unsupported by substantial evidence further supports the finding that
24 the ALJ’s decision was not substantially justified. Meier, 727 F.3d at 872. Hence,
25 as the prevailing party, Plaintiff is entitled to fees and expenses incurred in this
26 action. 28 U.S.C. § 2412(d)(1)(A).

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IV.
ORDER

Based on the foregoing, IT IS HEREBY ORDERED: (1) Plaintiff's counsel's Motion for Attorneys' Fees Under The Equal Access To Justice Act is granted, Dkt. 23; and (2) the Commissioner is directed to pay Plaintiff the sum of \$4,154.25, subject to Plaintiff's outstanding federal debts.

Dated: September 21, 2016



HONORABLE KENLY KIYA KATO
United States Magistrate Judge