

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CHARLES EDWARD JAMES,

Plaintiff,

v.

Case No.: 2:19-cv-715-SPC-MRM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation ([Doc. 29](#)) on Plaintiff's Unopposed Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) ([Doc. 26](#)). Judge McCoy recommends granting the Motion. Neither party objects to the Report and Recommendation, and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," the magistrate judge's R&R. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). In the absence of specific objections, there is no requirement that a district judge review the

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

R&R *de novo*. See *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties don't object, a district court need only correct plain error as demanded by the interests of justice. See, e.g., *Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985). Plain error exists if (1) "an error occurred"; (2) "the error was plain"; (3) "it affected substantial rights"; and (4) "not correcting the error would seriously affect the fairness of the judicial proceedings." *Farley v. Nationwide Mut. Ins.*, 197 F.3d 1322, 1329 (11th Cir. 1999).

After examining the file independently and upon considering Judge McCoy's findings and recommendations, the Court accepts and adopts the Report and Recommendation.


Accordingly, it is now

ORDERED:

1. The Report and Recommendation ([Doc. 29](#)) is **ACCEPTED** and **ADOPTED** and the findings incorporated herein.
2. Plaintiff's Unopposed Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) ([Doc. 26](#)) is **GRANTED**.
 - a. Plaintiff's counsel is awarded \$41,032.25 in attorney's fees under 42 U.S.C. § 406(b)
 - b. The Commissioner of Social Security is directed to pay Plaintiff's counsel \$41,032.25.

c. The Clerk is directed to enter a judgment awarding \$41,032.25 to Plaintiff's counsel for attorney's fees.

DONE and **ORDERED** in Fort Myers, Florida on January 7, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record