

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

RHONDA LYNN TIBBETTS,

Plaintiff,

v.

Case No.: 2:20-cv-872-SPC-MRM

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

\_\_\_\_\_ /

**OPINION AND ORDER**<sup>1</sup>

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation ([Doc. 27](#)) on Plaintiff's Unopposed Petition for EAJA Fees Pursuant to [28 U.S.C. § 2412\(d\)](#) ([Doc. 24](#)). Judge McCoy recommends granting in part and denying in part the Motion. Neither party objected, so the matter is ripe for review.

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

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<sup>1</sup> 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 R&R.

Accordingly, it is now

**ORDERED:**

1. The Report and Recommendation ([Doc. 27](#)) is **ACCEPTED and ADOPTED** and incorporated into this Order.
2. Plaintiff's Unopposed Petition for EAJA Fees Pursuant to [28 U.S.C. § 2412\(d\)](#) ([Doc. 24](#)) is **GRANTED in part and DENIED in part**.
  - a. Plaintiff is **AWARDED** \$8,294.00 in attorney's fees.
  - b. If the United States Department of Treasury determines that Plaintiff does not owe a federal debt, the Government

may exercise its discretion in determining whether the fees should be paid directly to Plaintiff's counsel.

3. The Clerk is **DIRECTED** to enter judgment in favor of Plaintiff for \$8,294.00 in attorney's fees.

**DONE** and **ORDERED** in Fort Myers, Florida on May 10, 2022.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record