

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

PAMELA ANN BEARD,

Plaintiff,

v.

Case No. 6:16-cv-1706-Orl-37KRS

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

In the instant appeal, Plaintiff sought judicial review of the Commissioner's denial of her claim for social security disability benefits. (Doc. 1.) On June 12, 2017, the Court granted the Commissioner's unopposed motion to remand this case for further administrative proceedings. (Doc. 23.) The following day, the Court entered judgment in Plaintiff's favor. (Doc. 24.)

As the prevailing party, Plaintiff now: (1) seeks an award for attorney fees in the amount of \$3,487.32 ("**Award**") under the Equal Access to Justice Act ("**EAJA**"); and (2) represents that, if the U.S. Department of Treasury determines that she does not owe a debt to the government, the parties have agreed that the Commissioner will honor Plaintiff's assignment of EAJA fees and pay the Award directly to her counsel.¹ (Doc. 25 ("**Fees Motion**").) On referral, U.S. Magistrate Judge Karla R. Spaulding issued a Report

¹ On August 11, 2016, Plaintiff assigned her right to any fees awarded under the EAJA to her counsel. (See Doc. 25-1 ("**Assignment**").)

recommending that the Court grant the fees motion. (Doc. 22 (“**R&R**”).) In doing so, Magistrate Judge Spaulding concludes that: (1) Plaintiff is entitled to the full amount of the Award; (2) the hourly rate underlying the award is reasonable, accounting for the applicable cost-of-living adjustment; and (3) Plaintiff’s counsel spent a reasonable number of hours on this case. (Doc. 26, pp. 1-2.) In addition, Magistrate Judge Spaulding recommended that the decision of whether to honor the Assignment be left to the Commissioner’s discretion. (*Id.* at 2-3.)

As the Fees Motion is unopposed and neither party has objected to the R&R, the Court has reviewed it only for clear error. *Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding no error, much less clear error, the Court finds that the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Karla R. Spaulding’s Report and Recommendation (Doc. 26) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff’s Uncontested Petition for Attorney’s Fees (Doc. 25) is **GRANTED**.
3. The Court awards Plaintiff Pamela Ann Beard attorney fees under the EAJA in the amount of **\$3,487.32**.
4. The Commissioner may exercise her discretion to honor Plaintiff’s assignment of EAJA fees to counsel if the U.S Department of Treasury determines that Plaintiff does not owe a debt to the U.S. Government.
5. The Clerk is **DIRECTED** to close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on August 7, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record