

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KENT W. GAIN, SR.,

Plaintiff,

v.

Case No. 8:18-cv-1389-T-AAS

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security
Administration,**

Defendant.

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ORDER

Kent Gain, Sr., moves for an award of attorney's fees, which the Commissioner does not oppose. (Doc. 23). Mr. Gain requests \$5,221.44 in attorney's fees and \$40.00 in expenses, under the Equal Access to Justice Act (EAJA), 28 U.S.C. Section 2412. The EAJA permits awards for reasonable attorney's fees and expenses to a prevailing party against the United States. 28 U.S.C. § 2412.

The February 6, 2019 order remanded the Commissioner's final decision under sentence four of 42 U.S.C. Section 405(g) for further administrative proceedings. (Doc. 21). The Clerk entered judgment in Mr. Gain's favor. (Doc. 22). Mr. Gain now requests an award of attorney's fees and expenses under the EAJA. (Doc. 23).

The Commissioner does not contest the following: Mr. Gain is the prevailing party; Mr. Gain's net worth was less than \$2 million when he filed his complaint; the Commissioner's position was not substantially justified; no special circumstances make an attorney's fees and expenses award unjust; and Mr. Gain's attorney's fees

and expenses request is reasonable. A court should grant a Social Security claimant's request for attorney's fees when it is unopposed. *See Jones v. Colvin*, No. 8:13-CV-2900-T-33AEP, 2015 WL 7721334 (M.D. Fla. Nov. 30, 2015) (awarding unopposed attorney's fees request). Therefore, Mr. Gain is entitled to \$5,221.44 in attorney's fees and \$40.00 in expenses.

Attorney's fees awarded to a claimant under the EAJA can be offset to satisfy the claimant's pre-existing debt to the United States. *Astrue v. Ratliff*, 560 U.S. 586, 589 (2010). Following this order, the United States Department of the Treasury will determine whether Mr. Gain owes a debt to the United States. Mr. Gain assigned his rights to EAJA fees to his attorney. So, if Mr. Gain has no federal debt, the United States will accept Mr. Gain's assignment of EAJA fees and pay the fees directly to his counsel.

Accordingly, Mr. Gain's motion for attorney's fees under the EAJA (Doc. 23) is **GRANTED**. Mr. Gain is awarded **\$5,221.44** in attorney's fees and **\$40.00** in expenses.

ORDERED in Tampa, Florida on April 12, 2019.



AMANDA ARNOLD SANSONE
United States Magistrate Judge