

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

DAVID W. KELLY, JR.,
Plaintiff,

v.

Case No.: 5:08cv71/MCR/MD

MICHAEL J. ASTRUE,
Commissioner of Social Security,
Defendant.

_____ /

ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated September 17, 2009. The plaintiff has been furnished a copy of the report and recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1), and I have made a de novo determination of those portions to which an objection has been made.

Having considered the report and recommendation and all objections thereto timely filed, I have determined that the report and recommendation should be adopted.

Accordingly, it is now ORDERED as follows:

1. The magistrate judge's report and recommendation is adopted and incorporated by reference in this order.
2. Plaintiff's unopposed petition for attorney fees (doc. 36) is granted as set forth below.
3. The court finds that plaintiff's counsel, Heather Freeman, Esquire, is entitled to recover a reasonable fee for representing plaintiff before the United States District Court for the Northern District of Florida pursuant to 28 U.S.C. § 2412 (EAJA), attorney fees

under the EAJA in the amount of \$4,276.72 are reasonable and the Commissioner is directed to pay counsel that amount.

DONE AND ORDERED this 16th day of October, 2009.

s/ M. Casey Rodgers

**M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE**