

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

TONY WATSON,

Plaintiff,

vs.

CASE NO. 5:09-cv-38/RS-MD

MICHAEL J. ASTRUE,

Defendant.

_____ /

ORDER

Before me is Plaintiff's Attorney's Motion for Attorney Fees (Doc. 35).

Attorney Barash has filed this motion twenty-one months after judgment was entered in his client's favor and eighteen months after fees were awarded under the EAJA. While the award of fees under 42 U.S.C. §406(b) does not contain a limitations period within the statute itself, this lengthy delay makes their award improper. The Eleventh Circuit has not articulated a bright-line limitations period under Section 406(b), however, a nearly two year delay is unreasonable. *See Ramer v. Astrue*, 2009 U.S. Dist. LEXIS 86556, *29 (M.D. Fla. 2009) (fourteen day requirement); *Newton v. Astrue*, 2008 U.S. Dist. LEXIS 110174, *50 (N.D. Ga. 2008) (ninety day requirement). *See also* Matthew Albanese, Essay, *Reasonably Untimely: The Difficulty of Knowing When to File a Claim for Attorney's Fees in Social Security Disability Cases, and an Administrative Solution*, 78 GEO. WASH. L. REV. 1014 (2010).

The Motion (Doc. 35) is **DENIED**. The Commissioner shall remit to Plaintiff those benefits which have been withheld.

ORDERED on October 4, 2011.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE