

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-22206-CIV-HURLEY/DUBÉ

FRANKIE CAO,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

REPORT AND RECOMMENDATION

THIS CAUSE is before this Court on the Petition for Attorney Fees filed by the Plaintiff (D.E. #28) pursuant to an Order of Reference entered by the Honorable Daniel T. K. Hurley, United States District Judge. This Court has reviewed the motion and the file in this cause.

On December 18, 2008, an Order and Final Judgment were entered by Judge Hurley adopting a Report and Recommendation by this Court and remanding this cause for further proceedings. (D.E. #25, #26).

The present motion seeks an award of fees and costs pursuant to the Equal Access to Justice Act. The affidavits filed by counsel for the Plaintiff indicate that 24 hours were spent on this case, at the rate of \$172.80 per hour, plus expenses in the amount of \$20.00 for a total recovery of \$4,167.20. A filing fee of \$350.00 is also sought by the Plaintiff. The response filed by the Defendant indicates no objection to the total amount sought for fees and costs. (D.E. #30).

This Court has reviewed the affidavit of counsel for the Plaintiff and finds that both the amount of time expended and the hourly rate requested are reasonable and that the total amount

sought by the Plaintiff for fees should be awarded.

Accordingly, based on the foregoing, this Court recommends that the Petition for Attorney Fees (D.E. #28) be **GRANTED** and that the Plaintiff be awarded the sum of **\$4,167.20** as attorney fees and expenses. Additionally, the Plaintiff should be awarded the sum of **\$350.00** for the filing fee to be paid out of the Judgment Fund. In accordance with the agreement of counsel, the fees should be payable to the Plaintiff's attorney, Luis A. Segarra.

Pursuant to Local Magistrate Rule 4(b), the parties have ten (10) days from service of this Report and Recommendation to serve and file written objections, if any, with the Honorable Daniel T. K. Hurley, United States District Judge. Failure to file timely objections shall bar the parties from attacking on appeal the factual findings contained herein. Loconte v. Dugger, 847 F.2d 745 (11th Cir. 1988), cert. denied, 488 U.S. 958 (1988); R.T.C. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993).

DONE AND ORDERED this 11 day of March, 2009.



ROBERT L. DUBÉ
UNITED STATES MAGISTRATE JUDGE