

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2019 APR 18 PM 4:29

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

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EDWARD LITWINKOWICK,)
)
Plaintiff,)
)
v.)
)
NANCY A. BERRYHILL, Acting)
Commissioner of Social)
Security,)
)
Defendant.)
_____)

CASE NO. CV417-220

O R D E R

Before the Court is Plaintiff's Motion for Attorneys' Fees. (Doc. 27.) In the motion, Plaintiff's counsel, Karl Osterhout and Robert Rosenblum, request attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412 ("EAJA"), for their representation of Plaintiff's case. (Doc. 18.) The Government has not opposed Plaintiff's requested award. The Court has carefully considered the application for attorneys' fees and costs and finds that Plaintiff meets the requirements set forth in Jean v. Nelson, 863 F.2d 759, 765 (11th Cir. 1988) (holding that to recover attorney's fees "(1) the litigant opposing the United States must be a prevailing party; (2) the government's position must not have been substantially justified; and (3) there must be no circumstances that make an award against the government unjust"). Accordingly, Plaintiff is **AWARDED** the requested \$8,056.00 in attorneys' fees. Upon the entry of this order, the

Commissioner will determine whether Plaintiff owes a debt to the government that qualifies under the Treasury Offset Program, 31 U.S.C. §§ 3711, 3716. If Plaintiff owes such a debt, the fee award will be applied towards the settlement of that debt and the Treasury Department should issue a check for the remaining funds made payable to Plaintiff and mail the check to Plaintiff's counsel. If Plaintiff does not owe such a debt, the government will accept the assignment of EAJA fees and pay such fees directly to Plaintiff's attorneys.¹

SO ORDERED this 18th day of April 2019.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ In the event, that Plaintiff is later awarded attorneys' fees under the Social Security Act, 42 U.S.C. § 406 ("SSA"), Plaintiff's counsel must "refun[d] to the claimant the amount of the smaller fee" award between the awarded attorneys' fees under the SSA and EAJA. Gisbrecht v. Barnhart, 535 U.S. 789, 798, 122 S. Ct. 1817, 1822 (2002) (internal citation omitted).