

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF ILLINOIS - SPRINGFIELD DIVISION

MICHAEL NOLAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 08-3255
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

OPINION

CHARLES H. EVANS, U. S. Magistrate Judge:

This matter comes before the Court on the Plaintiff’s Application for Brief in Support of Relief Under the Equal Access to Justice Act Pursuant to Sentence Four Remand (d/e 26). The Commissioner does not object to an award of attorney fees to Plaintiff Michael Nolan under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). Opposition to Plaintiff’s Application for Brief in Support of Relief Under the Equal Access to Justice Act Pursuant to Sentence Four Remand (d/e 27) (Opposition), at 1. The Commissioner objects to \$172.85 of the \$3,007.59 fee request because the

work was essentially clerical. The Court agrees. The Court, therefore, will allow an award of attorney fees in the sum of \$2,834.74.

The Commissioner also objects to the request to direct payment of the fee award to Plaintiff's counsel instead of the Plaintiff. The Court again agrees. The statute authorizes an award of attorney fees to the prevailing party, not the party's counsel. 28 U.S.C. § 2412(d). The Commissioner notes a conflict in the Circuits on this issue and that the Seventh Circuit has not addressed the issue. Opposition, at 2, citing Stephens v. Astrue, 565 F.3d 131, 138 (4<sup>th</sup> Cir. 2009); Bryant v. Comm'r of Soc. Sec., 578 F.3d 443, 448 (6<sup>th</sup> Cir. 2009); Manning v. Astrue, 510 F.3d 1246, 1255-56 (10<sup>th</sup> Cir. 2007)(fees to be paid to party); contra, Ratliff v. Astrue, 540 F.3d 800, 801 (8<sup>th</sup> Cir. 2008), cert. granted, \_\_ U.S. \_\_, 130 S. Ct. 48 (Sept. 30, 2009) (fees to be paid to the attorney for party). The Court has reviewed the cases and believes that the plain language of the statute authorizes an award to the party, not the party's counsel.

THEREFORE, Plaintiff's Application for Brief in Support of Relief Under the Equal Access to Justice Act Pursuant to Sentence Four Remand (d/e 26) is ALLOWED in part. The Court awards the Plaintiff

Michael Nolan attorney fees under the Equal Access to Justice Act in  
the sum of \$2,834.74.

ENTER: February 26, 2010.

FOR THE COURT:

s/Charles H. Evans  
CHARLES H. EVANS  
United States Magistrate Judge