

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

RONALD F. VERLEE

Plaintiff,

v.

CAROLYN W. COLVIN¹, Acting
Commissioner of Social Security

Defendant.

)
)
)
)
)
)
)
)
)
)
)

CAUSE NO.: 1:12-CV-45-TLS

ORDER

This matter is before the Court on the Plaintiff's Application for Attorneys' Fees Under the Equal Access to Justice Act and Memorandum in Support Thereof with supporting exhibits [ECF No. 33], filed on July 17, 2013. The Plaintiff requested a Court order awarding Equal Access to Justice fees pursuant to 20 U.S.C. § 2412, in the amount \$18,622.81,² reflecting the hourly rate of \$184.75 multiplied by the hours the attorneys spent working on this case at the federal court level. Counsel for Plaintiff additionally requests costs of \$350.00, representing the federal court filing fees, to be paid from the Judgment Fund. On October 28, 2013, Magistrate Judge Roger B. Cosbey issued a Report and Recommendation [ECF No. 42] recommending that the motion [ECF No. 33] be granted, except that the fee award be reduced from \$18,622.81 to \$16,239.53.

¹Although Plaintiff brought this suit against Michael J. Astrue, the former Commissioner of Social Security, Carolyn W. Colvin became the Acting Commissioner on February 14, 2013. As such, under Federal Rule of Civil Procedure 25(d), Colvin is automatically substituted as a party in place of Astrue. FED. R. CIV. P. 25(d).

²This figure reflects the Plaintiff's Revised Prayer for Relief from his Corrected Reply to Defendant's Response to Plaintiff's Application for EAJA Fees [ECF No. 40]. The Court notes the Report and Recommendation [ECF No. 42] uses the figure \$18,622.80, but finds the penny difference immaterial for reasons stated below.

The Court, being duly advised, and with more than fourteen days having passed without objection, the Court ACCEPTS Magistrate Judge Roger B. Cosbey's Recommendation [ECF No. 42] and GRANTS the Plaintiff's Application for Attorney Fees [ECF No. 33]. The Court ORDERS the Defendant to pay \$16,589.53 in attorney fees and costs, payable to Plaintiff's attorney, William L. Fouché at the Law Office of William Fouché. The Court further ORDERS that the Defendant ascertain whether the Plaintiff owes pre-existing debt to the United States that is subject to offset. *See Astrue*, 130 S. Ct. at 2528–29. If Plaintiff owes pre-existing debt subject to offset, the Defendant is DIRECTED to instruct the U.S. Department of Treasury to pay the Plaintiff any amount remaining after offset, and to make any such payment payable to Plaintiff's attorney, William L. Fouché at the Law Offices of William Fouché.

SO ORDERED on November 18, 2013.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT
FORT WAYNE DIVISION