

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

VALINSIA JONES

CIVIL ACTION

VERSUS

NO. 17-5324

NANCY BERRYHILL, ACTING  
COMMISSIONER OF SOCIAL SECURITY

SECTION "B"(2)

ORDER AND REASONS

Plaintiff Valinsia Jones filed a "Petition for Attorney's Fees." Rec. Doc. 17. Defendant Nancy Berryhill, Acting Commissioner of the Social Security Administration, filed an opposition. Rec. Doc. 21. For the reasons discussed below,

**IT IS ORDERED** that the motion is **GRANTED** in part and **DENIED** in part. Defendant shall pay \$3,937.50 in attorney's fees to Plaintiff.<sup>1</sup>

LAW AND ANALYSIS

In March 2018, the Court adopted the Magistrate Judge's Report and Recommendation, remanding Plaintiff's claim to the Social Security Administration for further proceedings. See Rec. Doc. 15 (adopting Rec. Doc. 14). Plaintiff now seeks an award of attorney's fees under the Equal Access to Justice Act (EAJA). Rec. Doc. 17. Defendant does not dispute (1) that Plaintiff is entitled to an award of attorney's fees or (2) the number of hours requested by

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<sup>1</sup> This represents 19.5 hours spent working on Plaintiff's case, plus 3 hours preparing the motion for attorney's fees, for a total of 22.5 hours, at \$175.00 per hour.

Plaintiff. See Rec. Doc. 21 at 4. The pending motion presents two questions, what hourly rate applies and whether the fees are payable to Plaintiff or Plaintiff's attorney?

First, fees awarded under EAJA are paid to the prevailing litigant, not his or her attorney, regardless of whether the litigant has agreed to assign those fees to his or her attorney. See *Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010); *Jackson v. Astrue*, 705 F.3d 527, 530-31 (5th Cir. 2013); *Wigginton v. SSA*, No. 15-6694, 2017 WL 3065110, at \*3 (E.D. La. July 19, 2017).

Second, a reasonable hourly rate for Plaintiff's attorney's work is \$175.00 per hour. See *Curvey v. Berryhill*, No. 17-0078, 2018 WL 3533590, at \*1-2 (E.D. La. July 23, 2018); *Wigginton*, 2017 WL 3065110, at \*3; *Kolb v. Colvin*, No. 13-5085, 2016 WL 258621, at \*2-3 (E.D. La. Jan. 21, 2016). With the exception of 4.25 hours billed in 2018, Plaintiff's attorney billed for work completed in 2017. See Rec. Doc. 17-1 at 1-2. Another section of this Court recently awarded EAJA attorney's fees at a rate of \$175.00 per hour for almost identical work completed in 2017 and 2018. See *Curvey*, 2018 WL 3533590, at \*1-2. Plaintiff has not provided a persuasive reason to reach a different conclusion here.

EAJA "clearly allows an adjustment [in the attorney fee rate] for changes in the cost of living, [but] it does not absolutely require it." *Baker v. Bowen*, 839 F.2d 1075, 1084 (5th Cir. 1988). "[R]ates should be increased only to the extent necessary to ensure

an adequate source of representation and should never exceed the percentage by which the market rate attorneys' fees have increased since the statute was enacted in 1981." *Id.* Plaintiff does not address these considerations in the motion seeking an award of attorney's fees, further weighing in favor of awarding fees at the prevailing rate of \$175.00 per hour. See *Curvey*, 2018 WL 3533590, at \*1-2 & n. 2; see also *Baker*, 839 F.2d at 1085 (emphasizing the goal that attorney's fee rates be consistent within geographic areas).

New Orleans, Louisiana, this 3rd day of August, 2018.

  
SENIOR UNITED STATES DISTRICT JUDGE