

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

WRIGHT PORTER

CIVIL ACTION

VERSUS

CAROLYN W. COLVIN, ACTING  
COMMISSIONER OF SOCIAL  
SECURITY ADMINISTRATION

NO. 12-768-BAJ-RLB

**RULING ON PLAINTIFF'S MOTION FOR ATTORNEY FEES**

Before the Court is Plaintiff's **Motion for Attorney Fees (R. Doc. 15)** under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(A), and the Commissioner's memorandum in opposition (R. Doc. 16).

In this action, Plaintiff appealed the Commissioner of the Social Security Administration's denial of his application for disability benefits. (R. Doc. 1). On March 31, 2014, the Court reversed the decision of the Commissioner and remanded the claim for further proceedings under 42 U.S.C. § 405(g). (R. Doc. 14). Plaintiff then filed the present Motion.

**I. LAW AND ANALYSIS**

The Equal Access to Justice Act ("EAJA") provides that a court shall award attorney's fees and costs to a prevailing party in a civil action brought against the United States "unless the court finds that the position of the United States was

substantially justified or that special circumstances make an award unjust.” 28 U.S.C. § 2412(d)(1)(A); *Baker v. Bowen*, 839 F.2d 1075, 1080 (5th Cir. 1988).

The parties do not dispute that Plaintiff is the prevailing party who filed a timely application for fees. Therefore, an award of reasonable attorney’s fees is proper in the instant case. The Commissioner concedes that Plaintiff is entitled to recover reasonable fees under § 2412 of the EAJA and does not object to the fee requested. The Commissioner does, however, object to Plaintiff’s request to make the fee award directly payable to Plaintiff’s attorney.

**A. Reasonableness of Hours Expended and Hourly Rate**

Plaintiff asks for attorney’s fees to compensate his attorney for 37.8 hours of work at a rate of \$150 per hour — \$5,670 total. Having reviewed Plaintiff’s counsel’s Itemization of Time in Support of EAJA Fees (R. Doc. 15-2), the Court finds the number of hours and the rate requested are both reasonable in this case. *See Watkins v. Commissioner of Social Security*, No. 11-617, 2014 WL 129065, at \*2 (M.D. La. Jan. 9, 2014) (“hourly rate of \$150.00 . . . is consistent with the rate generally applied by this Court”); *Brown v. Astrue*, No. 09-487, 2011 WL 612730, at \*3 (M.D. La. Feb. 7, 2011) (same); *Owen v. Colvin*, No. 12-1179, 2013 WL 6204270, at \*2 (W.D. La. Nov. 27, 2013) (hourly rate of \$150.00 typically applied in Western District “for attorney work performed in 2008 and beyond”); *Costa v. Comm’r of Social Sec. Admin.*, 690 F.3d 1132, 1136 (9th Cir. 2012) (“Many district courts have noted that twenty to forty hours is the range most often requested and granted in social security cases.”); *Hayes v. Astrue*, No. 09-2018, 2010 WL 5479611, at \*3 n.1

(N.D. Tex. Dec. 3, 2010) (20 to 40 hours); *Harcrow v. Astrue*, No. 06-10919, 2008 WL 2906632, at \*1 (E.D. La. July 24, 2008) (“The typical EAJA fee request is in the range of thirty to forty compensable hours.”); *Hardy v. Callahan*, No. 96-257, 1997 WL 470355, at \*9 (E.D. Tex. Aug. 11, 1997) (30 to 40 hours).

**B. Payment of Fee Award**

Plaintiff asks the Court to make the awarded fees directly payable to his attorney. (R. Doc. 16-1 at 3). However, “a § 2412(d) fees award is payable to the litigant” and not the attorney because the award may be “subject to a Government offset to satisfy a pre-existing debt that the litigant owes the United States.” *Astrue v. Ratliff*, 560 U.S. 586, 589 (2010). And so, the attorney’s fees will be awarded and paid to Plaintiff, not his attorney.

**II. CONCLUSION**

For the reasons discussed above, **IT IS ORDERED** that Plaintiff’s Motion for Attorney Fees (R. Doc. 15) is **GRANTED in part** and **DENIED in part**. The Commissioner of the Social Security Administration is **ORDERED** to pay **\$5,670** (37.8 hours at \$150.00 per hour) in attorney’s fees directly to Plaintiff.

Baton Rouge, Louisiana, this 21<sup>st</sup> day of November, 2014.



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**BRIAN A. JACKSON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**