

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

WENDELL TODD

PLAINTIFF

V.

NO. 3:14CV00070-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER ON PETITION FOR ATTORNEY'S FEES

Before the court is Plaintiff's Petition for Attorney's Fees [21] filed pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). In these proceedings Plaintiff sought judicial review of the Social Security Commissioner's final decision denying a claim for benefits. By Judgment [19] dated October 31 , 2014, this court remanded this case to the Commissioner for further proceedings. Plaintiff now seeks attorney's fees in the amount of \$4,655.14 (representing 26.3 hours of attorney time at the rate of \$175.00 per hour and including \$52.64 in expenses) under the EAJA on the grounds that he was the prevailing party and the Commissioner's position was not "substantially justified."

The Equal Access to Justice Act provides for the award of court costs and attorney's fees to the "prevailing party" in a judicial review of agency action, unless the position of the United States was "substantially justified" or "special circumstances" would make an award unjust. 28 U.S.C. § 2412(d)(1)(A). A party who wins a remand order in a social security disability case is a "prevailing party" under the EAJA. *Rice v. Astrue*, 609 F.3d 831, 833–34 (5th Cir. 2010); *Baker v. Bowen*, 839 F.2d 1075, 1081 (5th Cir. 1988).

In this case, the Commissioner does not object to the fee request. The court having given due consideration to the petition for fees and the record is of the opinion that the amount requested is reasonable and should be awarded.

THEREFORE, IT IS ORDERED:

That Plaintiff's petition for attorney's fees is GRANTED, and the Commissioner shall promptly pay Plaintiff a total of \$4,655.14 for the benefit of his counsel.

This 3rd day of December, 2014.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE