

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

TREMAYNE TRAVELLE BEAN

PLAINTIFF

v.

CIVIL ACTION NO. 3:17-CV-6-RP

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

**ORDER GRANTING IN PART PAYMENT
OF ATTORNEY'S FEES AND EXPENSES**

Plaintiff seeks an award of attorney's fees of \$5,556.60 paid pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. Section 2412, and the travel expense of \$50.29. Docket 22. The Commissioner does not object to an award of EAJA attorney's fees in this case, but does object to compensation for time spent seeking extensions of time for filing Plaintiff's brief. Docket 23.

Plaintiff seeks \$113.40 for 0.6 hours counsel spent drafting two motions for extension of time and for reviewing the Court's orders on said motions. The Commissioner objects to this request and argues that it would reward Plaintiff's counsel for not submitting timely pleadings. Specifically, the Commissioner notes that Plaintiff's second motion for extension of time was denied.

Motions for extensions of time are regularly requested and granted in Social Security cases. *Stark v. Comm'r of Soc. Sec.*, 2015 WL 3795985, at *2 (N.D. Miss. June 17, 2015). Here, Plaintiff's counsel requested two extensions of time, to which the government voiced no objections. Docket 11, 13. In these motions, Plaintiff's attorney stated that he is in court nearly every day and averages six Social Security Hearings per week across Mississippi and Tennessee. *Id.* In his second request, counsel for Plaintiff stated that he had "almost completed this brief but needs a few additional days to finalize it." Docket 14.

In *Stark*, the Court awarded attorney's fees under similar circumstances where "counsel did not excessively or frivolously seek extensions." *Stark*, 2015 WL 3795985, at *2. Similarly, in *McClung v. Commissioner of Social Security Administration*, the Court awarded fees for time spent preparing motions to extend time finding such a request "reasonable" in light of circumstances under which "counsel is one of a relatively small number of attorneys in the Eastern District of Texas whose practice largely centers around Social Security Appeals, and [...] she maintains a high caseload." *McClung v. Comm'r, Soc. Sec. Admin.*, 2015 WL 2197963, at *3 (E.D. Tex. May 11, 2015).

On April 21, 2017, the undersigned granted Plaintiff an extension of his deadline to file his brief but advised that "there will be no further extensions of the deadlines." Docket 12. On May 19, 2017, Plaintiff sought a second extension of his deadline which the Court denied, but allowed Plaintiff a brief extension to submit his brief. Docket 14. Because Plaintiff was advised that no further extensions will be permitted, the Court will not award fees for time related to the second motion. However, the Court finds that Plaintiff's counsel did not excessively or frivolously seek the first extension of time and the time spent in relation to the motion was reasonable and should be compensated.

Accordingly, it is **ORDERED** that Plaintiff's request for fees will be reduced by 0.3 hours—the time spent preparing the second motion and reviewing the Court's order—resulting in an award of \$5,499.90 in attorney's fees and \$50.29 in expenses, for a total EAJA award of \$5,550.19. This award is to be paid to Plaintiff for the benefit of his attorney, Joe Morgan Wilson.

This, the 20th day of October, 2017.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE