

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

PERRY STARK,)	
)	
Plaintiff,)	
)	
v.)	No. 2:12CV83 TIA
)	
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Application for Attorney Fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The parties consented to the jurisdiction of undersigned pursuant to 28 U.S.C. § 636(c).

On October 3, 2013, the undersigned remanded Plaintiff's case to the Commissioner for further proceedings pursuant to Defendant's Motion to Remand and Reverse. Plaintiff now seeks attorney's fees in the amount of \$3,534.26, which represents 18.5 hours of attorney work at the rate of \$184.96 per hour and 1.25 hours of legal assistant time at the rate of \$90.00 per hour. Plaintiff also seeks reimbursement for the cost of the filing fee in the amount of \$350.00. In EAJA actions, the district court has the authority to award reasonable and necessary expenses associated with adjudicating a claim for social security benefits. Kelly v. Bowen, 862 F.2d 1333, 1335 (8th Cir. 1988).

In the instant case, Defendant has filed a response noting no objection to Plaintiff's request for attorneys fees under the EAJA in the amount of \$3,534.26. However, as stated by Defendant, EAJA fees are payable to the Plaintiff and may be offset to satisfy any pre-existing debt owed to the

United States. Astrue v. Ratliff, ___ U.S. ___, 130 S. Ct. 2521, 2527 (2010).

The Court has reviewed Plaintiff's application for an award fo fees and expenses under the EAJA, and concludes the statutory requirements are met. Because Plaintiff prevailed and is not otherwise precluded from receiving attorney's fees, the Court finds that he is entitled to attorney's fees in the amount of \$3,534.26. The fee shall be mailed to Plaintiff's attorney: Russell C. Still, 515 Cherry Street, Suite 300, P.O. Box 933, Columbia, MO 65205.

In addition, as noted by Defendant, although the filing fee is a cost which is distinguished from an expense under the EAJA, see 28 U.S.C. § 2412(a), Defendant has agreed that Plaintiff should be awarded \$350.00, representing the federal court filing fee, from the Judgment Fund administered by the United States Treasury. A judgment for costs, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency thereof in any court having jurisdiction of such action. 28 U.S.C. § 2412(a)(1). "A judgment for costs when taxed against the United States shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by such party in the litigation." Id. Based on the foregoing, the Court will award Plaintiff costs in the amount of \$350.00 for reimbursement of the filing fee.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Application for Attorney Fees under the Equal Access to Justice Act (Docket No.23) is **GRANTED**.

IT IS HEREBY ORDERED that Defendant shall pay attorney's fees under the EAJA in the amount of \$3,534.26, payable to Plaintiff, but mailed to Russell C. Still, 515 Cherry Street, Suite 300, P.O. Box 933, Columbia, MO 65205.

IT IS FURTHER ORDERED that Plaintiff shall be reimbursed for the United States District Court filing fee of \$350.00 from the Judgment Fund administered by the United States Treasury.

An appropriate Judgment will accompany this Memorandum and Order.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 12th day of December, 2013.