Iserloth v. Berryhill Doc. 31

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA GREAT FALLS DIVISION

MIKE EDWIN ISERLOTH,

Plaintiff,

VS.

NANCY BERRYHILL, Acting Commissioner of Social Security,

Defendant.

CV 16-114-GF-BMM

ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS

Magistrate Judge John Johnston issued an Order denying Plaintiff Mike Iserloth's application for an award of attorney's fees and costs on April 18, 2018. (Doc. 30.) The Ninth Circuit Court of Appeals vacated Judge Johnston's April 18, 2018 Order. The Ninth Circuit determined that Judge Johnston lacked jurisdiction to issue an Order regarding Iserloth's application for attorney's fees and costs. The Ninth Circuit determined that Iserloth's application had been referred to Judge Johnston for Findings and Recommendations. The Ninth Circuit remanded the case for further proceedings (Doc. 28 at 1.)

Judge John Johnston reassessed Iserloth's application for attorney's fees and costs. Judge Johnston entered Findings and Recommendations in this matter on March 5, 2019. (Doc. 20.) Judge Johnston determined that Iserloth should recover

attorney's fees in the amount of \$7,042.09. Judge Johnston recommended that Iserloth's Application for an Award of Equal Access to Justice Act Fees (Doc. 20) be granted. Neither party filed objections.

Given that no objections were filed, the Court has reviewed Judge

Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The

Court finds no error in Judge Johnston's Findings and Recommendations, and

adopts them in full.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 30), are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Iserloth shall recover attorney's fees under the Equal Access to Justice Act in the amount of \$7,042.09.

IT IS FURTHER ORDERED that Iserloth's Application for an Award of Equal Access to Justice Act Fees (Doc. 20) is **GRANTED.**

DATED this 21st day of March, 2019

Brian Morris

United States District Court Judge