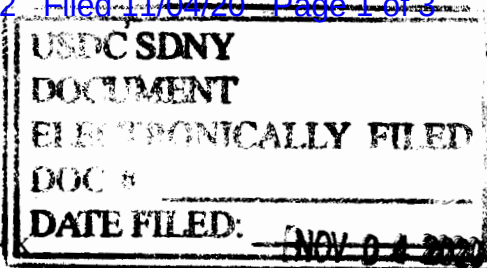


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



MONIQUE CRUZ,

Plaintiff,

-against-

ANDREW M. SAUL, *Commissioner of the Social Security Administration,*

Defendant.

MEMORANDUM DECISION
AND ORDER

17 Civ. 3951 (GBD) (JLC)

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GEORGE B. DANIELS, United States District Judge:

On May 24, 2017, Plaintiff Monique Cruz commenced this action against Defendant Nancy A. Berryhill, Acting Commissioner of Social Security,¹ pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking review of an administrative law judge’s decision denying Plaintiff supplemental security income and disability insurance benefits. (Compl., ECF No. 1.) On January 19, 2018, a Stipulation and Order was entered, directing the case to be remanded to the Commissioner for further administrative proceedings. (Stip. and Order of Remand, ECF No. 14.) That same day, the Clerk of the Court issued a judgment remanding the case. (J., ECF No. 15.) On February 8, 2018, a Stipulation and Order was entered that the Commissioner will pay Plaintiff \$5,499 in attorney’s fees and expenses, in full satisfaction of any and all claims made under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. (Stip. and Order, ECF No. 16.) Such fees, however, were wholly offset by Plaintiff’s debt to the federal government. (Affirmation, ECF No. 18, at ¶ 5.) On June 2, 2020, the Social Security Administration (“SSA”)

¹ Andrew M. Saul is now the Commissioner of the Social Security Administration. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Saul is hereby substituted for former Acting Commissioner Nancy A. Berryhill as the defendant in this action.

issued a “Notice of Award” stating that \$6,373 was being withheld from Plaintiff’s past due benefits for attorney’s fees. (Notice of Award, ECF No. 18-1, Ex. C, at 2.) Plaintiff’s counsel now moves for an award of attorney’s fees of \$6,373 pursuant 42 U.S.C. § 406(b). (Notice of Mot., ECF No. 17.) The Commissioner filed a letter expressing no objection to the requested fees and deferring to the Court’s discretion. (Letter dated July 10, 2020, ECF No. 20, at 2.)

Before this Court is Magistrate Judge James L. Cott’s July 14, 2020 Report and Recommendation (the “Report”), recommending that Plaintiff’s counsel’s motion for attorney’s fees be granted. (Report, ECF No. 21, at 6.) Magistrate Judge Cott advised the parties that, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.*) No objections have been filed.

A court “may accept, reject, or modify, in whole or in part, the findings or recommendations” set forth in a magistrate judge’s report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge’s report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when, “upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation omitted).


Magistrate Judge Cott conducted a thorough and careful inquest on attorney’s fees. (Report at 3–6.) This Court has reviewed the Report, and finds no error, clear or otherwise. Accordingly,

this Court adopts Magistrate Judge Cott's recommendation to award attorney's fees of \$6,373 for the reasons stated in the Report.

Plaintiff's counsel's motion for attorney's fees, (ECF No. 17) is GRANTED. The Clerk of the Court is directed to close the motion accordingly.

Dated: New York, New York
November 4, 2020

SO ORDERED.



GEORGE B. DANIELS
United States District Judge