

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:13-cv-00477-FL

JAMES MARCELL MITCHELL,)
)
Plaintiff,)
)
v.)
)
CAROLYN W. COLVIN,)
Acting Commissioner of)
Social Security,)
)
Defendant.)

ORDER

Plaintiff’s counsel filed a petition requesting \$11,987.98 in attorney’s fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b). (Docket Entry (“DE”) 40, DE 41.) These fees are paid from past-due benefits awarded to a successful claimant. See 42 U.S.C. § 406(b). Plaintiff’s counsel has previously received \$6,000 for work performed before the Social Security Administration. (DE 41 at 2.) Plaintiff has also been awarded \$4,024.70 in fees under the Equal Access to Justice Act, 28 U.S.C. § 2412. (DE 37.)

Defendant filed a response, stating that under Gisbrecht v. Barnhart, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff’s counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$11,987.98, and it is also ORDERED that Plaintiff’s counsel shall refund to Plaintiff any fees in excess of \$17,987.98, which is 25% of Plaintiff’s past due benefits.

This 1st day of October, 2015.



LOUISE W. FLANAGAN
United States District Judge