

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16-cv-00305-RJC**

DIXIE L. BYRD,

Plaintiff,

v.

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

AMENDED ORDER¹

THIS MATTER comes before the Court on Plaintiff's Motion for Attorney Fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. (Doc. No. 12). Plaintiff indicates that Defendant has consented to the fee requested in the Motion, and Defendant has not objected to the requested fees and the time for doing so has expired. Having reviewed the Motion, memorandum in support, supporting exhibits, and the case file, the Court determines that Plaintiff should be awarded attorneys' fees under EAJA, 28 U.S.C. § 2412(d), in the amount of \$3,230.00. The Court further determines that the Treasury Judgment Fund should reimburse Plaintiff's counsel the \$400.00 filing fee.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Attorneys' Fees, (Doc. No. 12), is **GRANTED**. The Court will award attorneys' fees in the amount of \$3,230.00, and pursuant to Astrue v. Ratliff, 560 U.S. 586 (2010), the fee award will first be subject to offset of any debt Plaintiff may owe to the United States. The Commissioner will determine whether Plaintiff owes a debt to the United States. If so, that debt will be satisfied first, and if any funds

¹ This Amended Order corrects a misspelling of Plaintiff's name in the Initial Order issued on July 26, 2017. (Doc. No. 13). In all other respects, the Amended Order is identical to the Initial Order.

remain, they will be made payable to Plaintiff and mailed to Plaintiff's counsel. If the United States Department of the Treasury reports to the Commissioner that the Plaintiff does not owe any debt, the Government will exercise its discretion and honor an assignment of EAJA fees, and pay those fees directly to Plaintiff's counsel. The Court further awards \$400.00 to be paid by the Treasury Judgment Fund to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

Signed: July 27, 2017

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

