

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

5:12cv47-RLV

NICHOLE H. MCKINNEY)
Plaintiff,)
)
v.)
)
MICHAEL J. ASTRUE,)
Commissioner, Social Security)
Administration,)
Defendant.)
<hr style="width:30%; margin-left:0;"/>)

ORDER

Pursuant to the power of this Court to award fees to a prevailing party other than the United States incurred by that party in a civil action against the United States, including proceedings for judicial review of agency action, under the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), and in light of this Court's September 17, 2012 Judgment remanding this case to the defendant Commissioner for further administrative proceedings under Title II of the Social Security Act, 42 U.S.C. §423,

IT IS HEREBY ORDERED that the United States Social Security Administration shall pay attorney's fees in the amount of eight hundred sixty-eight dollars, and six cents (\$868.06) in full satisfaction of any and all attorney's fee claims plaintiff may have in this case under the Equal Access to Justice Act. Pursuant to the United States Supreme Court's ruling in Commissioner of Social Security v. Ratliff, 560 U.S. ----, 130 S.Ct. 2521 (2010), these attorney's fees are payable to plaintiff as the prevailing party, and are subject to offset through the Treasury

Department's Offset Program to satisfy any pre-existing debt plaintiff may owe to the government. If, subsequent to the entry of this Order, the Commissioner determines that plaintiff owes no debt to the government that would subject this award of attorney's fees to offset, the Commissioner may honor plaintiff's April 4, 2012 signed assignment of EAJA fees providing for payment of the subject fees to plaintiff's counsel, rather than to plaintiff. If, however, the Commissioner discovers that plaintiff owes the government any debt subject to offset, the Commissioner shall pay any attorney's fees remaining after such offset to plaintiff, rather than to counsel.

Signed: October 18, 2012



Richard L. Voorhees
United States District Judge

