

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:12-cv-000191-RJC

WILLIE M. BURKE,)
)
 Plaintiff,)
)
 v.)
)
 NANCY A. BERRYHILL¹, Acting)
 Commissioner of Social Security,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER comes before the Court on Plaintiff’s Consent Motion for Attorney Fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, (Doc. No. 35), and supporting brief and exhibits. Plaintiff indicates that Defendant has consented to this Motion, and Defendant has not objected to the requested fees and the time for doing so has expired. (Id.). Having reviewed the Motion, supporting exhibits, and the case file, the Court determines that Plaintiff should be awarded attorney fees under EAJA, 28 U.S.C. § 2412(d), in the amount of \$4,964.85.

IT IS, THEREFORE, ORDERED that Plaintiff’s Motion for Attorney Fees, (Doc. No. 35), is **GRANTED**. The Court will award attorney fees in the amount of

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Commissioner Michael J. Astrue as Defendant in this suit. No further action needs to be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

\$4,964.85, 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 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. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

Signed: February 5, 2019



Robert J. Conrad, Jr.
United States District Judge

