

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

KRISTY D. MILLS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-06-126-KEW
)	
JO ANNE B. BARNHART,)	
Commissioner of Social)	
Security Administration,)	
)	
Defendant.)	


OPINION AND ORDER

This matter comes before the Court on Plaintiff's Opposed Motion to Set Aside Wrongful Offset of Attorney Fee Under Equal Access to Justice Act and Alternative Motion for Relief from Order Under Fed. R. Civ. P. 60 (b) (6) (Docket Entry #33). Plaintiff contends the Department of the Treasury offset a debt owed by Plaintiff to the McAlester District Child Support Enforcement Office against the EAJA fee award made by this Court. Counsel attempted to resolve the offset issue so that she could receive the fee from Plaintiff, to no avail. Through the current motion, Plaintiff requests that this Court set aside the offset or provide that the prior award be paid directly to her counsel rather than to her.

This Court first acknowledges that payment for EAJA fees must be made directly to the claimant rather than counsel. Manning v. Astrue, 510 F.3d 1246, 1255 (10th Cir. 2007). Additionally, the United States Supreme Court has determined that the government may offset against those fees for any debts owed by the claimant to the government. Astrue v. Ratliff, ___ U.S. ___, 130 S.Ct. 2521, 2524-25 (2010). Consequently, counsel's motion will be denied.

IT IS THEREFORE ORDERED that Plaintiff's Opposed Motion to Set Aside Wrongful Offset of Attorney Fee Under Equal Access to Justice Act and Alternative Motion for Relief from Order Under Fed. R. Civ. P. 60 (b) (6) (Docket Entry #33) is hereby **DENIED**.

IT IS SO ORDERED this 1st day of December, 2010.


KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE