

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

TIMOTHY C. BROWN,

Plaintiff,

vs.

MICHAEL J. ASTRUE,  
Commissioner, Social Security  
Administration,

Defendant.

Case No. 07-CV-405-FHM

**OPINION AND ORDER**

The Motion for Relief Pursuant to Fed. R. Civ. P. 60(b)(6), filed by Plaintiff's counsel [Dkt. ] is before the undersigned United States Magistrate Judge for decision. The Motion for Relief Pursuant to Fed. R. Civ. P. 60(b)(6) is GRANTED.

The court remanded this case to the Commissioner for further administrative action, pursuant to sentence four of 42 U.S.C. § 406(g). [Dkt. 20]. On remand the Commissioner issued a fully favorable decision. Counsel's motion for relief under Rule 60(b)(6) was filed shortly after the issuance of the decision. Counsel represents that, as of the date of filing the instant motion, the Notice of Award containing the amount of past due benefits had not been received. Consequently, the amount of the contingent attorney fee could not be ascertained. Counsel requests an order allowing the filing of the motion for 406(b) fees within sixty days of receipt of the Notice of Award. Counsel advises that the Defendant objects to the motion, but no response asserting that objection has been filed.

Subsequent to the filing of the instant motion, counsel filed a status report that advised a Notice of Award had been received but was being appealed on the belief that the calculations therein were incorrect. [Dkt. 27].

The court finds that a period of 60 days from the date of counsel's receipt of the corrected Notice of Award, in which to file a motion for fees under 42 U.S.C. § 406(b)(1) is reasonable.

The Motion for Relief Pursuant to Fed. R. Civ. P. 60(b)(6) filed by Plaintiff's counsel, [Dkt. 25] is GRANTED. A motion for an attorney fee award under §406(b), together with the required notice to Plaintiff and statement concerning any objection thereto, may be filed within 60 days of the corrected Notice of Award.

SO ORDERED this 21st day of June, 2011.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE