

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

JASON R. C. WHIBBEY,)
Plaintiff,)
v.) Case No. CIV-12-211-D
CAROLYN W. COLVIN,)
Acting Commissioner of Social)
Security Administration,)
Defendant.)

ORDER

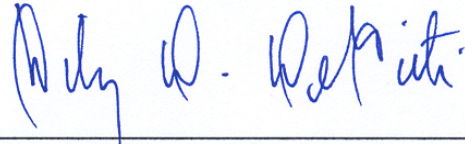
This matter comes before the Court for consideration of Plaintiff’s Application for an Award of Attorneys’ Fees Under the Equal Access to Justice Act [Doc. No. 18]. Plaintiff seeks an award of fees pursuant to 28 U.S.C. § 2412(d) in the amount of \$4,692.60 to compensate his attorney for 25.5 hours of legal services provided in the case. Plaintiff is the prevailing party in this action under 42 U.S.C. § 405(g) by virtue of the Judgment and Order of Remand entered July 10, 2013. The Acting Commissioner has responded by stating she has no objection to the requested amount or to an award payable to Plaintiff, consistent with Astrue v. Ratliff, 130 S. Ct. 2521, 2529 (2010), and Manning v. Astrue, 510 F.3d 1246, 1255 (10th Cir. 2007).

After consideration of the law, the record, and the arguments of the parties, the Court finds: (1) the Commissioner’s position in the case was not substantially justified; (2) Plaintiff is entitled to an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount of attorney fees requested is reasonable.

IT IS THEREFORE ORDERED that Plaintiff’s Application is GRANTED. The Court orders an award of attorney fees to Plaintiff pursuant to the Equal Access to Justice Act in the amount of \$4,692.60. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be

authorized, Plaintiff's attorney shall refund the smaller amount to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 13th day of September, 2013.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE