

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Marvin E. Murray,

Plaintiff,

vs.

Michael J. Astrue, Commissioner of Social
Security Administration,

Defendant.

Civil Action No. 0:09-cv-3226-RMG

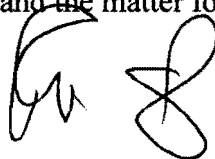
ORDER

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Before the Court is Plaintiff's motion for attorneys' fees. Defendant has opposed the motion. In this matter, the Commissioner denied benefits. After a *de novo* review, this Court remanded the matter for further administrative proceedings.

As to the motion at bar, having considered the briefing from both sides, this Court denies Plaintiff's motion for attorneys' fees. The Equal Access to Justice Act provides attorneys' fees in actions where the government's position is not substantially justified. The substantial justification test is one of law and fact. *See Pierce v. Underwood*, 487 U.S. 552, 565 (1988). Here, the Government's position was not unjustified. The position espoused by the Government was not without reasons and was well-briefed and argued. Ultimately, however, this Court decided to remand the matter for further findings.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

April 5, 2011
Charleston, South Carolina