

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

BRATCHER W. TAYLOR,)	CIVIL ACTION 4:07-2527-TER
)	
Plaintiff,)	
)	
v.)	ORDER
)	
MICHAEL J. ASTRUE, COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	
)	

This matter is before the court upon Counsel for Plaintiff's motion for attorney's fees and costs pursuant to the Social Security Act, 42 U.S.C. 406(b). The motion seeks reimbursement for counsel's representation in the above captioned matter in the amount of \$22,669.50, which amounts to twenty-five percent of the past-due benefits withheld by the Social Security Administration for attorney's fees. (Doc. #42).

Defendant filed a response in opposition asserting that the requested fee is excessive and asks the court to award attorney's fees pursuant to 42 U.S.C. 406(b) to Plaintiff's counsel in a reasonable amount, rather than the excessive amount requested, and direct counsel to remit the lesser of the two fees (EAJA fees were awarded in the amount of 4,057.20) to Plaintiff.

The Court has reviewed Counsel's fee petition and the signed fee agreement that was submitted with the petition and finds Counsel's request for fees reasonable.¹ Additionally, Counsel

¹ Plaintiff was awarded \$90,678.00 in past due benefits. His contingency fee contract provides for a fee of 25% which amounts to \$22,669.50. Although defendant argues this fee amount is unreasonable under Gisbrecht v. Barnhart, 535 U.S. 789, 795-798 (2002), the Court

continuously litigated this action since February 2005 without delay attributable to Counsel, this was a relatively difficult case, Counsel has years of experience and expertise, in excess of forty-three hours were expended on this case in this court and during the administrative level, 22.2 of which were in this court, and counsel represents to the court that he will not “file an administrative fee petition if the 25% fee is approved by the District Court.” (Memorandum in Support of Motion, p. 4).

It is ORDERED that plaintiff’s motion for attorney fees pursuant to the Social Security Act, 42 U.S.C. 406(b), be granted in the amount of \$22,669.50.

Plaintiff has already been awarded fees in the amount of \$4057.20 under the Equal Access to Justice Act. Plaintiff’s counsel shall refund to the plaintiff the total amount of EAJA fees, \$4057.20, immediately after he receives the payment of the 406(b) fees.

AND IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

December 3, 2010
Florence, South Carolina

finds the fee to be reasonable. There is no evidence of substandard representation or delay by plaintiff’s counsel.