

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EDUARDO TORRES,

Plaintiff,

VS.

MICHAEL J ASTRUE,

Defendant.

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CIVIL ACTION NO. C-09-73


**MEMORANDUM OPINION AND ORDER ON
MOTION TO ALTER OR AMEND**

On September 23, 2010, a memorandum and recommendation was made to the District Court, recommending that plaintiff's unopposed motion for EAJA fees be granted in part (D.E. 22). On September 24, 2010, the Commissioner filed a motion to alter or amend the judgment, requesting that the fee order be made payable to the prevailing plaintiff/claimant, and not to counsel (D.E. 23).

No judgment has been entered. Rather, undersigned has merely recommended that the District Court award EAJA fees; therefore the motion will be treated as a motion to reconsider and to amend the recommendation to the District Court. The Commissioner argues that the United Supreme Court, in Astrue v. Ratliff, 130 S.Ct. 2521 (2010), clarified that the EAJA statute awards attorneys fees to a prevailing claimant/party, and

not to the party's attorney. The Commissioner is correct. The motion for reconsideration (D.E. 23) is granted. An amended memorandum and recommendation will be entered.

ORDERED this 24th day of September, 2010.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE