

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

DARYN EDWARD MARDIS

Plaintiff,

v.

CAROLYN W. COLVIN, ACTING  
COMMISSIONER OF THE SOCIAL  
SECURITY ADMINISTRATION,

Defendant.

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CIVIL ACTION NO. 6:12-045

**ORDER**

Pending before the Court is Plaintiff Daryn Edward Mardis’ (“Mardis”) “Unopposed Application for Award for Attorney’s Fees and Costs Under the Equal Access to Justice Act 28 U.S.C. § 2412(d) and Brief.” (Dkt. No. 19). That statute provides, in relevant part, that:

A Court shall award to a prevailing party [in certain suits against the United States] . . . fees and other expenses . . . unless the Court finds that the position of the United States was substantially justified.

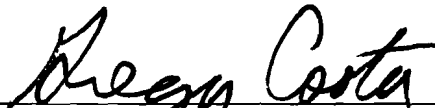
28 U.S.C. § 2412(d)(1)(A). Attorneys who successfully represent persons seeking benefits under the Social Security Act fall within the attorney’s fee provisions of the statute. *Herron v. Bowen*, 788 F.2d 1127 (5<sup>th</sup> Cir. 1986).

Rodney F. Durham, counsel for Mardis, has submitted an itemized list of services showing that 5.25 hours were expended on this case in 2012 and 24.25 hours were expended on this case in 2013. (Dkt. No., Ex. B). The EAJA provides that attorney’s fees shall be limited to \$125 an hour “unless the court determines that an increase in the cost of living . . . justifies a higher fee.” 28 U.S.C. § 22412(d)(2)(A). Durham claims the hourly rate should be set at \$178.75 for the

work he performed in 2012 and 2013. Durham bases the hourly rate on the Department of Labor's Consumer Price Index ("CPI"), as it is calculated for the region. He therefore seeks attorney's fees in the amount of \$5,273.11. The Commissioner does not oppose the time expended by Durham or the hourly rate for which he seeks compensation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Mardis' Unopposed Motion for Attorney's Fees is **GRANTED**. It is further **ORDERED** that attorney's fees in the amount of \$5,273.11 are approved to be released to Rodney F. Durham, counsel for Mardis, as the reasonable and necessary fee for counsel's services in this matter at the federal court level.

SIGNED this 11<sup>th</sup> day of September, 2013, at Galveston, Texas.

  
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Gregg Costa  
United States District Judge