

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
ARKANSAS, FORT SMITH DIVISION**

**Jerry Barnes v. Frank Bisignano, Commissioner, Social Security
Administration**

Barnes · No. 2:25-cv-02147-MEF · Decided May 28, 2026

OPINION

Barnes

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

JERRY BARNES PLAINTIFF

v. CIVIL NO. 2:25-cv-02147- MEF FRANK BISIGNANO, Commissioner Social Security
Administration DEFENDANT

MEMORANDUM OPINION AND ORDER

Pending now before this Court is Plaintiff's Stipulated Motion for Attorney Fees Under the Equal Access to Justice Act. (ECF No. 19). The parties have stipulated to an award of \$6,000.00 in attorney's fees and no costs under 28 U.S.C. § 2412, the Equal Access to Justice Act ("EAJA"). (Id.). It is the opinion of the undersigned that the Plaintiff is entitled to a fee award in this case, as he is the prevailing party, the government's decision to deny benefits was not "substantially justified," and the parties have stipulated to the fee requested. See *Jackson v. Bowen*, 807 F.2d 127, 128 (8th Cir. 1986) (burden is on the Commissioner to show substantial justification for the government's denial of benefits); 28 U.S.C. § 2412(d)(2)(A) (statutory ceiling for an EAJA fee award is \$125.00 per hour); *Johnson v. Sullivan*, 919 F.2d 503, 505 (8th Cir. 1990) (court may determine that there has been an increase in the cost of living, and may thereby increase the attorney's rate per hour, based upon the United States Department of Labor's Consumer Price Index ("CPI")); *Hensley v. Eckerhart*, 461 U.S. 424, 430 (1983) (in determining reasonableness, court looks at time and labor required; the difficulty of questions involved; the skill required to handle the problems presented; the attorney's experience, ability, and reputation; the benefits resulting to the client from the services; the customary fee for similar services; the contingency or certainty of compensation; the results obtained; and, the amount involved); and General Order 39 (the Court's standing Order allowing for enhanced hourly rates based on the CPI-South for December of the previous year). Accordingly, the undersigned finds that the Plaintiff is entitled to an attorney's fee award under EAJA in the amount of \$6,000.00. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 (2010), the EAJA fee award should be made payable to Plaintiff; however, if the

Plaintiff has executed a valid assignment to Plaintiff's attorney of all rights in a fee award and Plaintiff owes no outstanding debt to the federal government, the attorney's fee may be awarded directly to Plaintiff's attorney. The parties are reminded that, to prevent double recovery by counsel for the Plaintiff, the award herein under the EAJA will be considered at such time as a reasonable fee is determined pursuant to 42 U.S.C. § 406. Accordingly, the Plaintiff is awarded the stipulated amount of \$6,000.00 in attorney's fees and no costs pursuant to the EAJA, 28 U.S.C. § 2412. Dated this 28th day of May 2026. /s/ Mark E. Ford

HON. MARK E. FORD

UNITED STATES MAGISTRATE JUDGE