

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

**Benita Villatoro v. Frank Bisignano, Commissioner, Social Security
Administration**

Villatoro · No. 2:24-cv-02152-TLB-MEF · Decided December 17, 2025

SUMMARY

A magistrate judge recommends awarding Plaintiff Benita Villatoro \$9,127.40 in attorney fees under the Equal Access to Justice Act after finding that she prevailed, the government's denial of benefits was not substantially justified, and the requested rates and hours were reasonable. The recommendation directs that the award be payable to the plaintiff under *Astrue v. Ratliff* and notes the relationship between the EAJA award and any later fee award under 42 U.S.C. § 406.

OPINION

IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF ARKANSAS FORT SMITH DIVISION BENITA VILLATORO PLAINTIFF v. Civil No. 2:24-cv-02152-TLB-MEF FRANK BISIGNANO, Commissioner, Social Security Administration DEFENDANT MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION Pending now before this Court is Plaintiff's Motion for Attorney Fees Under the Equal Access to Justice Act.

(ECF No. 19). On December 12, 2025, Plaintiff filed a motion for attorney's fees and costs under 28 U.S.C. § 2412, the Equal Access to Justice Act (hereinafter "EAJA"), requesting \$9,127.40, representing a total of 3.10 attorney hours for work performed in 2024 at an hourly rate of \$245.00; 32.70 attorney hours in 2025 at a rate of \$252.00 per hours; and 1.70 paralegal hours at a rate of \$75.00 per hour.

(ECF No. 19-2). On December 16, 2025, the Commissioner filed a response voicing no objections. (ECF No. 21). It is the opinion of the undersigned that the Plaintiff is entitled to a fee award in this case, as she is the prevailing party, the government's decision to deny benefits was not "substantially justified," the hourly rate requested for both attorney and paralegal hours does not exceed the CPI for either year in question, and the time asserted to have been spent in the representation of the Plaintiff before the district court is reasonable.

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); *Johnson v. Sullivan*, 919 F.2d 503 (8th Cir. 1990) (the hourly rate may be increased when there is "uncontested proof of an increase in the cost of living sufficient to justify hourly attorney's fees of more than \$75.00 an hour); and,

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).

Accordingly, Plaintiff is entitled to an attorney's fee award under EAJA in the amount of \$9,127.40. Pursuant to Astrue v. Ratliff, 560 U.S. 586, 596 (2010), the EAJA fee award should be made payable to Plaintiff; however, as a matter of practice, an EAJA fee made payable to Plaintiff may properly be mailed to Plaintiff's counsel.

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 undersigned recommends that the Plaintiff be awarded the sum of \$9,127.40 for attorney's fees pursuant to the EAJA, 28 U.S.C. § 2412.

The parties have fourteen (14) days from receipt of our report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact.

We remind the parties that objections must be both timely and specific to trigger de novo review by the district court. Dated this 17th day of December 2025. /s/ Mark E. Ford HONORABLE MARK E. FORD UNITED STATES MAGISTRATE JUDGE