

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Carolyn Lett Craig v. Commissioner of Social Security

Craig · No. 1:22-cv-00719-CDB (SS) · Decided March 10, 2023

SUMMARY

The United States District Court for the Eastern District of California granted the parties' stipulated request for attorney fees and costs under the Equal Access to Justice Act following a sentence-four remand in a Social Security case. The court awarded \$3,735.71 in EAJA attorney fees and \$402.00 for the filing fee, subject to any applicable Treasury Offset Program deductions.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 10, 2023
DOCKET	1:22-cv-00719-CDB (SS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought attorney fees and costs after obtaining a stipulated sentence-four remand in a Social Security action.
STANDARD OF REVIEW	The court evaluated whether Plaintiff was the prevailing party under the EAJA, whether the government's position was substantially justified, whether special circumstances made an award unjust, and whether the requested hours and costs were reasonable.
PRECEDENTIAL VALUE	Nonprecedential district court order; precedential status not identified in the source.
PARTIES	Carolyn Lett Craig v. Commissioner of Social Security

TOPICS

attorney fees costs judicial review of agency action administrative law remedies

PRACTICE AREAS

Social Security administrative law attorney fees costs

QUESTIONS PRESENTED

1. Whether Plaintiff was a prevailing party entitled to attorney fees under the Equal Access to Justice Act after a sentence-four remand.
2. Whether the government's position was substantially justified or special circumstances made an EAJA fee award unjust.
3. Whether the requested attorney fees and \$402.00 filing fee were reasonable and recoverable as costs.

HOLDINGS

1. A party who obtains a sentence-four remand under 42 U.S.C. § 405(g) is a prevailing party eligible to seek EAJA fees.
2. The Court awarded EAJA attorney fees because Plaintiff prevailed, timely sought fees, the government did not establish that its position was substantially justified, and no special circumstances made an award unjust.
3. The requested \$3,735.71 in EAJA fees was reasonable and commensurate with the work required to review the voluminous administrative record and prepare the summary judgment motion.
4. The Court awarded Plaintiff the \$402.00 filing fee as a recoverable cost under 28 U.S.C. §§ 2412(a) and 1920.

KEY QUOTATIONS

“Under the EAJA, a court shall award attorney fees to the prevailing party unless it finds the government’s position was “substantially justified or that special circumstances make such an award unjust.”” (at 1)

“The Court finds this reasonable and commensurate with the number of hours an attorney reasonably would need to have spent reviewing the voluminous certified administrative record in this case (over 2300 pages) and preparing the type of summary judgment motion Plaintiff’s counsel prepared and filed (raising three disputed legal issues).” (at 2)

FACTUAL BACKGROUND

Plaintiff prevailed when the Court remanded her Social Security case under sentence four of 42 U.S.C. § 405(g) for further administrative proceedings. Her counsel represented that approximately 16 hours of attorney time were reasonably expended reviewing a certified administrative record exceeding 2,300 pages and preparing a summary judgment motion raising three disputed legal issues. Plaintiff requested \$3,735.71 in EAJA fees and reimbursement of a \$402.00 filing fee.

PROCEDURAL HISTORY

The Court granted the parties' stipulated motion for remand on January 9, 2023, remanding the action under sentence four of 42 U.S.C. § 405(g) to the Commissioner for further administrative proceedings, and judgment was entered that day. Plaintiff then moved, pursuant to the Equal Access to Justice Act, for \$3,735.71 in attorney fees and \$402.00 in costs. The Commissioner did not oppose the stipulated request.

DISPOSITION

other

REMAND INSTRUCTIONS

No new remand was ordered in this fee proceeding. The prior sentence-four remand to the Commissioner for further administrative proceedings remained in effect. The Commissioner was directed to pay the awarded fees and costs, subject to any Treasury Offset Program offset and the terms of the parties' stipulation.

CASES CITED

- Shalala v. Schaefer, 509 U.S. 292, 300-02 (1993)
- Sanchez v. Berryhill, No. 1:16-cv-01081-SKO, 2018 WL 509817, at *2 (E.D. Cal. Jan. 23, 2018)
- Knyazhina v. Colvin, No. 2:12-cv-2726 DAD, 2014 WL 5324302, at *1 (E.D. Cal. Oct. 17, 2014)
- Thangaraja v. Gonzales, 428 F.3d 870, 876-77 (9th Cir. 2005)
- Armstrong v. Astrue, No. CIV-S-07-1456-DAD, 2008 WL 2705023, at *2 (E.D. Cal. Jul. 9, 2008)
- Astrue v. Ratliff, 560 U.S. 586 (2010)

OPINION

(SS) Craig v. Commissioner of Social Security

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 CAROLYN LETT CRAIG, Case No. 1:22-cv-00719-CDB (SS) 12 Plaintiff, ORDER ON
STIPULATION AWARDING

PAYMENT OF ATTORNEY FEES AND

13 v. EXPENSES PURSUANT TO THE EQUAL

ACCESS TO JUSTICE ACT

14 COMMISSIONER OF SOCIAL SECURITY,

(ECF No. 18) 15 Defendant. 16 17 18 Pending before the Court is the parties' stipulated motion for award and payment of 19 attorney fees and expenses pursuant to the equal access to justice act, filed on February 27, 2023. 20 (ECF No. 18). The parties agree to an award of attorney's fees and costs to the attorney for 21 Plaintiff Carolyn Lett Craig ("Plaintiff"), Amy M. Gilbrough, in the amount of \$3,735.71 under 22 the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of \$402.00 23 under 28 U.S.C. § 1920. Id. 24 On January 9, 2023, the Court granted the parties' stipulated motion for a remand and 25 remanded the case pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for 26 further administrative proceedings. (ECF

No. 16). Judgment was entered January 9, 2023. (ECF

27 No. 27). Plaintiff now requests an award of attorney fees and expenses as the prevailing party.

1 (ECF No. 18); see *Shalala v. Schaefer*, 509 U.S. 292, 300-02 (1993) (concluding that a party who 2 wins a sentence-four remand order under 42 U.S.C. § 405(g) is a prevailing party). The 3 Commissioner did not oppose the requested relief. (ECF No. 18). 4 The EAJA provides for an award of attorney fees to private litigants who both prevail in 5 civil actions (other than tort) against the United States and timely file a petition for fees. 28 6 U.S.C. § 2412(d)(1)(A). Under the EAJA, a court shall award attorney fees to the prevailing 7 party unless it finds the government's position was "substantially justified or that special 8 circumstances make such an award unjust." *Id.* Here, the government did not show its position 9 was substantially justified and the Court finds there are no special circumstances that would make 10 an award unjust. Moreover, the government does not oppose Plaintiff's stipulated request. See 11 *Sanchez v. Berryhill*, No. 1:16-cv-01081-SKO, 2018 WL 509817, at *2 (E.D. Cal. Jan. 23, 2018) 12 (finding position of the government was not substantially justified in view of the Commissioner's 13 assent to remand); *Knyazhina v. Colvin*, No. 2:12-cv-2726 DAD, 2014 WL 5324302, at *1 (E.D. 14 Cal. Oct. 17, 2014) (finding position of the government not substantially justified where the 15 parties stipulated to a remand of the action to the Commissioner for a new hearing). 16 Plaintiff requests an award of \$3,735.71 in EAJA fees. She also requests reimbursement 17 for her \$402.00 filing fee under 28 U.S.C. § 1920. (ECF No. 25). The Ninth Circuit maintains 18 a list of the statutory maximum hourly rates authorized by the EAJA, adjusted for increases in 19 the cost of living, on its website. See *Thangaraja v. Gonzales*, 428 F.3d 870, 876-77 (9th Cir. 20 2005). Even assuming Plaintiff's counsel seeks the published maximum rate of \$234.95 for 21 2022,¹ the requested award would amount to approximately 16 hours of attorney time (not 22 accounting for any paralegal time expended). The Court finds this reasonable and commensurate 23 with the number of hours an attorney reasonably would need to have spent reviewing the 24 voluminous certified administrative record in this case (over 2300 pages) and preparing the type 25 of summary judgment motion Plaintiff's counsel prepared and filed (raising three disputed legal 26 issues). (ECF Nos. 10, 12). With respect to the results obtained, Plaintiff's counsel obtained a 27 1 Statutory Maximum Rates Under the Equal Access to Justice, available at 1 | favorable judgment remanding the case for further administrative proceedings. 2 Under the EAJA, the Court may award a judgment of costs to the prevailing party. 28 3 | U.S.C. § 2412(a)(1) (citing 28 U.S.C. § 1920). Costs include, among other things, court filing 4 | fees. See 28 U.S.C. § 1920; *Armstrong v. Astrue*, No. CIV-S-07-1456-DAD, 2008 WL 2705023, 5 | at *2 (E.D. Cal. Jul. 9, 2008) (granting prevailing plaintiff's request for reimbursement of filing 6 | fee). 7 EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset 8 | Program ("TOP"), as discussed in *Astrue v. Ratliff*, 560 U.S. 586 (2010). If the Commissioner 9 | determines upon effectuation of this order that Plaintiff's EAJA fees are not subject to any offset 10 | allowed under the TOP, the fees shall be delivered or otherwise transmitted to Plaintiff's counsel. 11 Accordingly, it is

HEREBY ORDERED: 12 1. Plaintiffs stipulated request for the award and payment of attorney fees and expenses 13 pursuant to the EAJA (ECF No. 18) is GRANTED; and 14 2. The Commissioner is directed to pay to Plaintiff as the prevailing party attorney fees in 15 the amount of \$3,735.71. The Commissioner is also directed to pay Plaintiff the \$402.00 16 filing fee incurred as a cost in this action. Unless any offsets are applied under TOP, the 17 government shall make payment of the fees and costs to Plaintiff's counsel Amy M. 18 Gilborough, in accordance with Plaintiffs assignment of fees and subject to the terms of 19 the stipulation. 20 [T IS SO ORDERED. Dated: _ March 10, 2023 | Wr bo
22 UNITED STATES MAGISTRATE JUDGE
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