

**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.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 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)C1) (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 23 24 25 26 27 28