

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS

Bostic v. Bowen

691 F. Supp. 1176 (N.D. Ill. 1988) · Decided August 22, 1988

SUMMARY

The court considers counsel’s petition for attorneys’ fees in a successful Social Security case under 42 U.S.C. § 406(b)(1) and a contingent-fee agreement. It approves the full amount withheld by the Social Security Administration, \$3,328.26, finding the fee reasonable in light of the contingent nature of the representation and the hours expended.

CASE DETAILS

COURT	United States District Court for the Northern District of Illinois
WRITING FOR THE COURT	Milton I. Shadur
JURISDICTION	Illinois
DECIDED	August 22, 1988
DISPOSITION	other
PROCEDURAL POSTURE	Counsel for a prevailing Social Security claimant petitioned the district court for an award of attorney's fees under 42 U.S.C. § 406(b) (1) and the parties' contingent-fee agreement.
STANDARD OF REVIEW	The court independently reviewed the requested fee for objective reasonableness rather than automatically enforcing the contractual fee arrangement.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the Northern District of Illinois and elsewhere, subject to controlling appellate and Supreme Court precedent.

TOPICS

- administrative law
- remedies
- judicial review of agency action

PRACTICE AREAS

- Social Security
- administrative law
- attorneys' fees
- remedies

QUESTIONS PRESENTED

1. Whether the court was required to review the reasonableness of attorney's fees requested under 42 U.S.C. § 406(b)(1) and the contingent-fee agreement.
2. Whether an award of the full \$3,328.26 withheld by the Social Security Administration was reasonable in light of the contingent nature of the representation and counsel's customary hourly rates.

HOLDINGS

1. A court must independently review attorney's fees for reasonableness when approving an award under 42 U.S.C. § 406(b)(1); the contingent-fee agreement carries an implicit requirement of reasonableness and is not automatically controlling.
2. The full \$3,328.26 withheld by the SSA was a reasonable attorney's-fee award.

KEY QUOTATIONS

“Accordingly the Agreement must be viewed as containing the same implicit requirement of reasonableness as the explicit requirement of Section 406(b)(1).” (691 F. Supp. at 1176)

“That increment over the assured-payment hourly rate is entirely reasonable in light of the nature of such contingent fee cases as a class” (691 F. Supp. at 1177)

FACTUAL BACKGROUND

Bostic's counsel represented him in a contingent-fee Social Security case and obtained a favorable judgment. The fee agreement required Bostic, if successful, to pay the greater of 25 percent of his past-due benefits or \$90 per hour for attorney time. The SSA withheld \$3,328.26, which represented the requested fee; counsel had spent approximately 18.9 hours on the litigation, producing an average hourly rate of about \$175.

PROCEDURAL HISTORY

Bostic prevailed in an underlying Social Security case. After the favorable judgment, the Social Security Administration withheld \$3,328.26 for attorney's fees, and Bostic's counsel sought payment of that amount under § 406(b)(1) and the contingent-fee agreement. The district court approved the full requested fee and ordered the SSA to pay it to counsel.

DISPOSITION

other

CASES CITED

- *Pennsylvania v. Delaware Valley Citizens' Council*, 107 S. Ct. 3078, 97 L. Ed. 2d 585 (1987)