

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
KENTUCKY

Lona Tracee Whitley, ex rel. S.B. v. Commissioner of Social Security
Administration

Whitley · No. 5:24-cv-00365-GFVT · Decided March 30, 2026

SUMMARY

The United States District Court for the Eastern District of Kentucky partially granted Lona Tracee Whitley’s motion for attorney fees under the Equal Access to Justice Act following remand of her Social Security appeal. The court reduced the requested hours based on substantial copying from a prior brief, excluded unrecoverable pro hac vice and clerical time, and approved attorney and paralegal rates of \$245 and \$100 per hour, respectively. The court awarded a total of \$6,719.00 in EAJA fees.

CASE DETAILS

COURT	United States District Court for the Eastern District of Kentucky
WRITING FOR THE COURT	Gregory F. Van Tatenhove
JURISDICTION	United States District Court for the Eastern District of Kentucky
DECIDED	March 30, 2026
DOCKET	5:24-cv-00365-GFVT
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for attorney fees and expenses under the Equal Access to Justice Act after the Commissioner voluntarily sought remand and the court reversed and remanded the prior administrative decision. The Commissioner did not oppose an EAJA award but challenged the amount of hours, hourly rates, and recoverability of certain expenses.
STANDARD OF REVIEW	The court exercised discretion to determine a reasonable EAJA award, including the reasonableness of hours and rates, under the lodestar approach.
PRECEDENTIAL VALUE	unpublished
PARTIES	Lona Tracee Whitley, ex rel. S.B. v. Commissioner of Social Security Administration

TOPICS

attorney fees

judicial review of agency action

administrative law

remedies

civil procedure

PRACTICE AREAS

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civil procedure

QUESTIONS PRESENTED

1. Whether Whitley was entitled to an award of attorney fees under the Equal Access to Justice Act.
2. Whether the requested attorney and paralegal hours were reasonable in light of substantial duplication from an earlier brief and clerical work.
3. Whether Whitley provided sufficient evidence to support an attorney hourly rate above the EAJA's \$125 statutory cap.
4. Whether pro hac vice filing expenses and time spent preparing the pro hac vice motion and adjusting timesheets were recoverable under the EAJA.

HOLDINGS

1. A prevailing private party is entitled to EAJA fees when the statutory requirements are satisfied, including that the government's position was not substantially justified; Whitley was entitled to an EAJA award in this case.
2. A court may reduce requested EAJA hours that are excessive, redundant, duplicative, inadequately documented, or otherwise unnecessary.
3. An attorney may receive an EAJA rate above \$125 per hour when the applicant provides competent evidence showing both that an increased cost of living or special factor supports the increase and that the requested rate is consistent with prevailing rates in the relevant community.
4. Paralegal work is compensable under the EAJA only when it reflects tasks traditionally performed by an attorney and customarily billed to a client; purely clerical or secretarial tasks are not compensable at a paralegal rate.
5. Whitley was entitled to \$6,719.00, consisting of 26.2 attorney hours at \$245 per hour and 3.0 paralegal hours at \$100 per hour.

KEY QUOTATIONS

“Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary” (II.A)

“at some point, a message must be sent that counsel may not simply spend the Government’s money by repeatedly billing for substantially the same work.” (II.A)

“In other words, purely clerical or secretarial tasks should not be billed at a paralegal rate, regardless of who performs them.” (II.B.2)

FACTUAL BACKGROUND

Whitley, acting as S.B.'s aunt, guardian, and conservator, successfully challenged a prior adverse Social Security Administration decision after the Commissioner voluntarily sought remand upon determining that the administrative law judge had erred. Counsel sought \$9,650.01 in EAJA fees and expenses, including compensation for 40 hours of work, an attorney rate above the statutory rate, paralegal time, and pro hac vice-related work. The court found that approximately 75.3 percent of the brief duplicated a brief counsel had filed in an earlier benefits appeal and that some requested tasks were clerical or otherwise unrecoverable.

PROCEDURAL HISTORY

Whitley, acting on behalf of S.B., appealed an adverse Social Security Administration decision. After reviewing the record, the Commissioner filed an unopposed motion to remand, which the court granted, entering judgment reversing and remanding for further administrative proceedings. Whitley then moved for EAJA fees, initially seeking \$9,650.01 based on 40 hours of work and later requesting additional time for the reply. The court granted the fee motion in part and denied it in part, awarding \$6,719.00.

DISPOSITION

other

CASES CITED

- Comm’r, I.N.S. v. Jean, 496 U.S. 154, 155, 165-66 (1990)
- Bryant v. Comm’r of Soc. Sec., 578 F.3d 443, 445-46, 450 (6th Cir. 2009)
- Minor v. Comm’r of Soc. Sec., 826 F.3d 878, 881 (6th Cir. 2016)
- Gonter v. Hunt Valve Co., 510 F.3d 610, 616 (6th Cir. 2007)
- Hensley v. Eckerhart, 461 U.S. 424, 433-34, 437 (1983)
- English v. Comm’r of Soc. Sec., No. 1:11CV2794, 2012 U.S. Dist. LEXIS 124085, at *10-11, *24-25 (N.D. Ohio Aug. 31, 2012)
- Payne v. Comm’r of Soc. Sec., No. 13-13561, 2015 U.S. Dist. LEXIS 116360, at *4-5 (E.D. Mich. Aug. 14, 2015)
- Moxley v. Comm’r of Soc. Sec., No. 1:15CV1533, 2016 WL 5922382 (N.D. Ohio Sept. 7, 2016)
- Williams v. Dudek, 780 F. Supp. 3d 709, 712 (W.D. Ky. 2025)
- Clay v. Berryhill, No. 17-2586-DKV, 2019 WL 12711724, at *1 (W.D. Tenn. July 29, 2019)
- Morangello on behalf of J.N.M. v. Saul, No. 6:20-CV-142-CHB, 2021 WL 5713534, at *1 (E.D. Ky. May 5, 2021)
- Blum v. Stenson, 465 U.S. 886, 895 n.11 (1984)
- Kalar v. Astrue, No. CIV.A. 10-428-JBC, 2012 WL 2873815, at *1 (E.D. Ky. July 13, 2012)
- Chipman v. Sec’y of Health and Human Servs., 781 F.2d 545, 547 (6th Cir. 1986)
- Coursey v. Comm’r of Soc. Sec., 843 F.3d 1095, 1098 (6th Cir. 2016)
- Phipps v. Kijakazi, No. 5:22-CV-00155-MAS, 2023 U.S. Dist. LEXIS 250221, at *3 (E.D. Ky. Mar. 14, 2023)
- Mitchell v. O'Malley, No. CV 5:23-224-DCR, 2024 WL 42302, at *1 (E.D. Ky. Jan. 3, 2024)

- *Townsend v. Bisignano*, Civil Action No. 5:25-019-DCR, 2025 U.S. Dist. LEXIS 132998, at *4 (E.D. Ky. July 14, 2025)
- *Ison v. Kijakazi*, No. 7:21-CV-70-JMH, 2022 U.S. Dist. LEXIS 146206 (E.D. Ky. Aug. 16, 2022)
- *Whitaker v. Kijakazi*, Civil Action No. 5:21-CV-163-CHB, 2022 U.S. Dist. LEXIS 146739, at *8 (E.D. Ky. Aug. 17, 2022)
- *Echols v. Express Auto, Inc.*, 857 F. App'x 224, 229 (6th Cir. 2021)
- *Plotecher v. Comm'r of Soc. Sec.*, No. 2:18-cv-00010, 2019 U.S. Dist. LEXIS 244769, at *8 (W.D. Mich. Oct. 1, 2019)
- *Whitley v. SSA*, 5:23-cv-258-MAS (E.D. Ky. Jan. 3, 2024)

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