

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Ebony Wright v. Commissioner of the Social Security Administration

Wright · No. 1:19-CV-5337 (FB) · Decided February 17, 2026

SUMMARY

The United States District Court for the Eastern District of New York approved attorney Christopher James Bowes's application for \$34,944.50 in fees under 42 U.S.C. § 406(b) following a remand in a Social Security disability case. The court found the application timely and the requested fee reasonable under the statutory 25% cap and applicable Second Circuit standards. Because Bowes had previously received \$6,800.00 in EAJA fees, the court ordered him to refund that amount to the plaintiff.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Frederic Block
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	February 17, 2026
DOCKET	1:19-CV-5337 (FB)
DISPOSITION	other
PROCEDURAL POSTURE	Following remand in a Social Security disability action and an award of Equal Access to Justice Act fees, Plaintiff's counsel moved under 42 U.S.C. § 406(b) for approval of an attorney-fee award from Plaintiff's past-due benefits.
STANDARD OF REVIEW	The court reviewed the § 406(b) fee application for timeliness and determined whether the requested contingency fee was reasonable, including whether it exceeded the statutory cap, resulted from fraud or attorney overreach, or constituted a windfall.
PRECEDENTIAL VALUE	Unpublished federal district court memorandum and order; persuasive rather than precedential.
PARTIES	Ebony Wright v. Commissioner of the Social Security Administration

TOPICS

attorney fees

administrative law

judicial review of agency action

civil procedure

PRACTICE AREAS

Social Security

attorney fees

administrative law

QUESTIONS PRESENTED

1. Whether counsel's application for attorney fees under 42 U.S.C. § 406(b) was timely when filed within fourteen days of counsel's receipt of the Notice of Award but more than fourteen days after the date printed on the notice.
2. Whether the requested § 406(b) fee of \$34,944.50 was reasonable and did not exceed the statutory twenty-five-percent cap or constitute a windfall.
3. Whether counsel was required to refund the previously awarded EAJA fees to Plaintiff after receiving the § 406(b) fee.

HOLDINGS

1. A § 406(b) fee application is timely when filed within fourteen days after counsel receives notice of the past-due-benefits award, even if the filing occurs more than fourteen days after the date printed on the Notice of Award.
2. The requested attorney fee of \$34,944.50 was reasonable under § 406(b), did not exceed twenty-five percent of Plaintiff's past-due benefits, was not the product of fraud or attorney overreach, and did not constitute a windfall.
3. Counsel may not retain fees awarded under both the EAJA and § 406(b); after receiving the § 406(b) award, counsel must refund the smaller EAJA fee to Plaintiff.

KEY QUOTATIONS

“Once counsel receives notice of the benefits award—and, therefore, the maximum attorney's fees that may be claimed—there is no sound reason not to apply Rule 54(2)(B)'s fourteen-day limitations period to a § 406(b) filing.”

FACTUAL BACKGROUND

After remand, Ebony Wright received \$143,788 in past-due Social Security disability benefits. The Commissioner withheld \$35,944.50, representing a possible attorney-fee award. Wright's counsel received the Notice of Award on September 30, 2025, filed the § 406(b) application within fourteen days, and sought \$34,944.50 after having previously received \$6,800 in EAJA fees.

PROCEDURAL HISTORY

The Court had previously ordered remand and awarded counsel \$6,800 in EAJA fees. After the Social Security Administration issued a Notice of Award reflecting \$143,788 in past-due benefits and withholding \$35,944.50 for a possible attorney-fee request, counsel filed a § 406(b) application within fourteen days of receiving the notice. The Court found the application timely, approved \$34,944.50 in § 406(b) fees, and ordered counsel to refund the \$6,800 EAJA award to Plaintiff.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The Court ordered counsel, within five business days of receiving the § 406(b) fees, to refund the \$6,800 EAJA award to Plaintiff and file a declaration confirming the refund on the docket.

CASES CITED

- Sinkler v. Berryhill, 932 F.3d 83, 85, 88 (2d Cir. 2019)
- Walker v. Astrue, 593 F.3d 274, 280 (3d Cir. 2010)
- Wells v. Sullivan, 907 F.2d 367, 372 (2d Cir. 1990)
- Fields v. Kijakazi, 24 F.4th 845, 854-55 (2d Cir. 2022)
- Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002)

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