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PRECEDENTIAL VALUE	Unpublished federal district court memorandum and order; persuasive rather than precedential.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)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK EBONY WRIGHT, Plaintiff, MEMORANDUM AND ORDER -against- Case No. 1:19-CV-5337 (FB) COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION, Defendant. Appearances: For the Plaintiff: For the Defendant: CHRISTOPHER JAMES BOWES REBECCA H. ESTELLE 54 Cobblestone Drive Special Assistant United States Attorney Shoreham, New York 11786 Eastern District of New York 271 Cadman Plaza East, 7th Floor Brooklyn, New York, 11201 BLOCK, Senior District Judge: Following remand from this Court, Plaintiff Ebony Wright ("Plaintiff") received past-due disability benefits from the Social Security Administration ("SSA").

Her counsel, Christopher James Bowes ("Bowes"), now seeks approval of an attorney-fee award of $34,944.50 After this Court ordered a remand, it awarded Bowes $6,800.00 in attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412.

On September 29, 2025, the SSA issued Plaintiff a Notice of Award ("NOA") announcing that her total past due benefits were $143,788.00 and withholding $35,944.50 to pay a possible attorney-fee request. Dkt. 34-2. Plaintiff's attorney received notice of the award on September 30, 2025, and fourteen days thereafter filed this 42 U.S.C. § 406(b) attorney-fee application.

See Sinkler v. Berryhill, 932 F.3d 83, 85 (2d Cir. 2019) (fourteen-day filing period). First, the Court must consider whether Bowes' motion was timely. Typically, an attorney must file an application for fees under § 406(b) within 14 days after the claimant receives notice of any past-due benefits award. See Sinkler v. Berryhill, 832 F.83, 85 (2d Cir. 2019).

Although Bowes made the application more than 14 days following the date on the NOA, September 29, 2025, he affirms that he first received the NOA on September 30, 2025. Bowes

Decl. ¶ 23, ECF No. 34. Thus, Bowes' application is timely because it was made within 14 days of his own receipt of the NOA. See Sinkler, 932 F.3d at 88 ("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."); also Walker v. Astrue, 593 F.3d 274, 280 (3d Cir.

2010) (tolling application deadline until NOA is issued "and counsel is notified of that award"). Turning to the requested attorney-fee award, the Court determines that $34,944.50 is reasonable under the circumstances. Section 406(b) entitles prevailing plaintiffs in Social Security actions to "reasonable [attorney's] fee[s] [that are] not in excess of 25 percent of the total past-due benefits to which the claimant is entitled." Reasonableness depends on three factors: (1) whether the proposed fee is below the 25% statutory maximum; (2) whether the contingency-fee agreement is the product of fraud or attorney overreach; and (3) whether the requested amount is so large it constitutes a windfall to the attorney.

See Wells v. Sullivan, 907 F.2d 367, 372 (2d Cir. 1990). As indicated by the NOA, the proposed fee award here does not exceed the 25% cap, and the Court is aware of no evidence of fraud or attorney overreach. To assess the third factor, the Second Circuit has directed district courts to consider (1) the expertise and ability of the claimant's lawyer and whether he or she was particularly efficient; (2) the nature and length of the lawyer's professional relationship with the claimant, including any representation at the agency level; (3) the satisfaction of the claimant; and (4) the level of uncertainty of an award of benefits and the efforts it took to achieve the result of a disability ruling.

See Fields v. Kijakazi, 24 F.4th 845, 854-55 (2d Cir. 2022) (de facto hourly rate of $1,556.98 was reasonable). Having considered those guidelines, the Court finds that the requested award does not constitute a windfall.

Finally, because an attorney cannot receive fees under both the EAJA and § 406(b), Bowes must refund the smaller fee award to the Plaintiff, see Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002), i.e., the $6,800.00 in EAJA fees.

Accordingly, the Court approves Bowes' requested attorney-fee award of $34,944.50 under § 406(b) to be paid by the Commissioner out of the proceeds awarded to Plaintiff as past- due benefits. Within five business days of receipt of the § 406(b) fees, Bowes is ordered to refund the EAJA award of $6,800.00 to Plaintiff and file a declaration stating such on the docket.

SO ORDERED. _/S/ Frederic Block__________ FREDERIC BLOCK Senior United States District Judge Brooklyn, New York February 17, 2026