

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

OPINION

Wright

PER CURIAM.

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.3d, 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