

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

N.C.C. v. Frank Bisignano

N.C.C. v. Bisignano · No. 6:24-cv-01010 (24-1010-DDC) · Decided April 2, 2026

SUMMARY

The United States District Court for the District of Kansas partially granted and partially denied a motion for attorney fees under 42 U.S.C. § 406(b) in a Social Security case. Although counsel sought \$15,993 based on 3.8 hours of work and a 25% contingency-fee agreement, the court found the resulting hourly rate unreasonable and awarded \$6,384. The court ordered payment from the claimant’s past-due benefits and required counsel to refund any EAJA fees received.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Daniel D. Crabtree
JURISDICTION	United States District Court for the District of Kansas
DECIDED	April 2, 2026
DOCKET	6:24-cv-01010 (24-1010-DDC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for attorney fees under 42 U.S.C. § 406(b) after the court reversed the Commissioner's denial of benefits and remanded the matter for further proceedings, which resulted in a favorable benefits decision.
STANDARD OF REVIEW	The amount of a fee awarded under 42 U.S.C. § 406(b) is committed to the district court's sound discretion; the court independently reviews a contingent-fee arrangement to determine whether it yields a reasonable result in the particular case.
PRECEDENTIAL VALUE	unpublished
PARTIES	N.C.C. v. Frank Bisignano, Commissioner of the Social Security Administration

TOPICS

- attorney fees
- judicial review of agency action
- administrative law
- remedies
- civil procedure

PRACTICE AREAS

Social Security

attorney fees

administrative law

civil procedure

QUESTIONS PRESENTED

1. Whether counsel's requested fee of \$15,993, representing 25% of plaintiff's past-due benefits, was reasonable under 42 U.S.C. § 406(b).
2. Whether the court should direct that the § 406(b) fee be paid from the past-due benefits withheld by the Commissioner.
3. Whether counsel must refund the smaller EAJA fee after receiving the § 406(b) award.

HOLDINGS

1. A contingent-fee agreement is subject to independent judicial review under 42 U.S.C. § 406(b), and the court may reduce the agreed fee when the resulting award is unreasonable in light of the character and result of the representation, attorney-caused delay, and the benefits obtained compared with the time expended.
2. The Commissioner must pay the § 406(b) attorney-fee award from the amount withheld from plaintiff's past-due benefits.
3. When counsel receives fees under both the EAJA and § 406(b), counsel must refund to the plaintiff the smaller fee amount.

KEY QUOTATIONS

“the statute “calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases.”” (II)

“It’s unreasonable for plaintiff’s attorney to recover nearly \$16,000 of plaintiff’s past-due benefits for less than four hours of work.” (III)

FACTUAL BACKGROUND

Plaintiff retained counsel on a contingency-fee basis of 25% of past-due Social Security benefits. Counsel obtained a judicial remand, and on remand an Administrative Law Judge found plaintiff disabled beginning in June 2020, resulting in an award of past-due benefits of which 25% equaled \$15,993. Counsel documented only 3.8 hours of work and had received or was entitled to receive an EAJA fee, requiring a refund of the smaller fee after the § 406(b) award.

PROCEDURAL HISTORY

N.C.C. filed a complaint challenging the denial of Social Security benefits. On an unopposed motion, the court reversed the Commissioner's decision and remanded for further proceedings, and awarded plaintiff's counsel \$885.40 in EAJA fees. After the agency awarded past-due benefits, counsel sought \$15,993 under a 25% contingency-fee agreement and 42 U.S.C. § 406(b). The court awarded \$6,384 instead and ordered counsel to refund the smaller EAJA fee amount after receiving the § 406(b) award.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 798 n.6 (2002)
- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807-08 (2002)
- *McGraw v. Barnhart*, 450 F.3d 493, 497 (10th Cir. 2006)
- *McGraw v. Barnhart*, 450 F.3d 493, 503 (10th Cir. 2006)
- *McGraw v. Barnhart*, 450 F.3d 493, 505 (10th Cir. 2006)
- *Gordon v. Astrue*, 361 F. App'x 933, 935 (10th Cir. 2010)
- *Gonzalez v. Bisignano*, No. 24-2096-JWL, 2026 WL 294942, at *2-3 (D. Kan. Feb. 4, 2026)
- *D.L. v. O'Malley*, No. 22-CV-1199-JAR, 2024 WL 382626, at *2 n.11 (D. Kan. Feb. 1, 2024)
- *M.B. v. O'Malley*, No. 20-CV-2453-JAR, 2024 WL 2818137, at *2 (D. Kan. June 3, 2024)
- *Crozzer v. Bisignano*, No. 23-CV-1268-JAR, 2025 WL 3525270, at *2 (D. Kan. Dec. 9, 2025)
- *Stuart v. City of Topeka*, No. 23-cv-02021-TC, 2026 WL 444810, at *9 (D. Kan. Feb. 17, 2026)
- *Skyline Trucking, Inc. v. Truck Ctr. Cos.*, No. 22-4052-DDC-TJJ, 2024 WL 1282457, at *14 (D. Kan. Mar. 26, 2024)

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