

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Pires v. Commissioner of Social Security

Pires · No. 2:20-cv-1073-KJN · Decided March 3, 2023

SUMMARY

The United States District Court for the Eastern District of California granted plaintiff's counsel's motion for attorney's fees under 42 U.S.C. § 406(b) following a favorable remand outcome in a Social Security case. The court awarded \$18,064.70 from withheld past-due benefits and ordered counsel to reimburse the plaintiff \$4,811.75 in previously awarded EAJA fees.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Kendall J. Newman
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 3, 2023
DOCKET	2:20-cv-1073-KJN
DISPOSITION	other
PROCEDURAL POSTURE	After granting plaintiff's motion for summary judgment and remanding the Social Security case for further proceedings, the court considered plaintiff's counsel's motion for attorney's fees under 42 U.S.C. § 406(b).
STANDARD OF REVIEW	The court reviewed the requested § 406(b) fee for reasonableness, beginning with the contingent-fee agreement and considering whether counsel provided substandard representation, engaged in dilatory conduct, or sought a fee disproportionate to the time spent and results obtained.
PRECEDENTIAL VALUE	Unknown; district court order without a reported citation.
PARTIES	Joe Pires v. Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

Social Security

administrative law

attorney fees

civil procedure

QUESTIONS PRESENTED

1. Whether counsel's requested fee under 42 U.S.C. § 406(b) was reasonable and should be awarded from the claimant's past-due Social Security benefits.
2. Whether counsel was required to reimburse the claimant for previously awarded Equal Access to Justice Act fees.

HOLDINGS

1. A contingent-fee award under § 406(b) may be approved when it is consistent with the fee agreement and reasonable in light of the quality of representation, absence of dilatory conduct, results achieved, time spent, and risk undertaken; the requested \$18,064.70 fee was reasonable here.
2. When § 406(b) fees are awarded after a claimant has received EAJA fees for the same representation, counsel must reimburse the claimant for the previously awarded EAJA amount.

KEY QUOTATIONS

"In reviewing the fee request, the district court is to look first to the parties' contingency-fee agreement, then test it for reasonableness—respecting "the primacy of lawful attorney-client fee agreements" (at 2)

"A fee resulting from a contingent-fee agreement is unreasonable, and thus subject to reduction by the court, if the attorney provided substandard representation or engaged in dilatory conduct in order to increase the accrued amount of past-due benefits, or if the benefits are large in comparison to the amount of time counsel spent on the case." (at 2-3)

"Counsel is ordered to reimburse plaintiff \$4,811.75 in previously-awarded EAJA fees." (at 4)

FACTUAL BACKGROUND

Pires's Social Security application had been denied three times before the federal court remanded the case for further proceedings. On remand, an administrative law judge issued a fully favorable decision awarding \$95,144.00 in past-due benefits, of which \$23,786.00 was withheld for fees. Counsel had a contingent-fee agreement for up to 25% of past-due benefits, had already received \$5,721.30 for administrative work, and sought \$18,064.70 for federal-court representation based on 23.7 hours of work.

PROCEDURAL HISTORY

On August 27, 2021, the court granted plaintiff's motion for summary judgment and remanded for further proceedings. The parties then stipulated to Equal Access to Justice Act fees of \$4,811.75. On remand, an administrative law judge issued a fully favorable decision awarding \$95,144.00 in past-due benefits, and counsel received \$5,721.30 for administrative work. Counsel sought an additional \$18,064.70 under § 406(b), which the court granted.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 793 (2002)
- *Gisbrecht v. Barnhart*, 535 U.S. 789, 798 n.6 (2002)
- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 n.17 (2002)
- *Crawford v. Astrue*, 586 F.3d 1142, 1147-49 (9th Cir. 2009) (en banc)
- *Langston v. Saul*, 2020 WL 4501941, at *3 (E.D. Cal. Aug. 5, 2020)
- *Villa v. Astrue*, 2010 WL 118454, at *1-2 (E.D. Cal. Jan. 7, 2010)

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