UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION

Taylor S. v. Commissioner of Social Security

Taylor S. · No. 1:25-cv-10670 · Decided January 13, 2026

SUMMARY

The court denied without prejudice Plaintiff's motion for attorney fees under the Equal Access to Justice Act because the motion did not allege that the government's position was not substantially justified. The court granted Plaintiff fourteen days to file an amended motion containing the required allegation and allowed the government seven days to respond.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Northern Division
WRITING FOR THE COURT	Patricia T. Morris
JURISDICTION	United States District Court for the Eastern District of Michigan, Northern Division
DECIDED	January 13, 2026
DOCKET	1:25-cv-10670
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved for attorney fees under the Equal Access to Justice Act after the court remanded the Social Security case pursuant to sentence four of 42 U.S.C. § 405(g).
STANDARD OF REVIEW	The court independently reviews the fee application for compliance with the EAJA and determines the reasonableness and statutory eligibility of any requested fee award. Substantial justification is assessed on the record as a whole, including the underlying agency action and the government's litigation position.
PRECEDENTIAL VALUE	Unknown
PARTIES	Taylor S. v. Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

Social Security · Administrative Law · Attorney Fees · Civil Procedure

QUESTIONS PRESENTED

1. Whether an EAJA fee application must allege that the government's position was not substantially justified.
2. Whether the omission of that allegation requires denial of the fee motion or may be cured by amendment.
3. Whether an unopposed EAJA fee motion may be granted without the court independently determining compliance with the statute and the reasonableness of the requested award.

HOLDINGS

1. An application for attorney fees under the EAJA must allege that the position of the United States was not substantially justified.
2. The omission is not necessarily fatal, but the motion must be properly amended to include the required allegation; otherwise, the fee motion will be denied.
3. The court has an independent obligation to determine the reasonableness and statutory sufficiency of an attorney-fee request, even when the motion is unopposed.

KEY QUOTATIONS

> *"The Court thus finds that (1) the "not substantially justified" allegation is a necessary requirement to Plaintiff's motion and (2) the initial omission of that allegation is not fatal to the motion but must be properly amended to assert the requisite standard or the motion would be denied."* (II.C)

> *"Although the plaintiff must allege the government's position was not substantially justified, the government bears the burden of demonstrating substantial justification."* (II.B)

> *"While the motion is unopposed, the Court "has an independent obligation to determine the reasonableness of the fee award requested.""* (II.C)

FACTUAL BACKGROUND

Plaintiff challenged the Social Security Administration's decision as unsupported by substantial evidence and sought summary judgment. The parties stipulated to a sentence-four remand for further proceedings, and the court entered final judgment in plaintiff's favor. Plaintiff's counsel sought attorney fees under the EAJA, but the motion omitted an allegation that the government's position was not substantially justified.

PROCEDURAL HISTORY

Plaintiff moved for summary judgment challenging the Administrative Law Judge's decision. The parties stipulated to a sentence-four remand, which the court granted on August 27, 2025, entering final judgment the same day. Plaintiff's counsel then moved for EAJA attorney fees; the court denied the motion without prejudice because it did not allege that the government's position was not substantially justified, while allowing fourteen days to file an amended motion.

DISPOSITION

other

REMAND INSTRUCTIONS

The motion for attorney fees was denied without prejudice. Plaintiff was granted fourteen days from January 13, 2026, to file an amended motion containing all necessary requirements; the government was granted seven days thereafter to respond.

CASES CITED

- Scappino v. Comm’r of Soc. Sec. Admin., No. 12-cv-02694, 2015 WL 7756155, at *3 (N.D. Ohio Dec. 1, 2015)
- Ratliff v. Comm’r of Soc. Sec., 465 F. App’x 459, 460 (6th Cir. 2012)
- Marshall v. Comm’r, 444 F.3d 837, 840 (6th Cir. 2006)
- E.W. Grobbel Sons, Inc. v. Nat’l Labor Relations Bd., 176 F.3d 875, 878 (6th Cir. 1999)
- Fields v. Comm’r of Soc. Sec., No. 16-cv-14189, 2019 WL 1253472, at *5 n.2 (E.D. Mich. Jan. 4, 2019), report and recommendation adopted, 2019 WL 643188 (E.D. Mich. Feb. 15, 2019)
- Jones v. Schweiker, 565 F. Supp. 52, 55 (W.D. Mich. 1983)
- Pierce v. Underwood, 487 U.S. 552, 565 (1988)
- Amezola-Garcia v. Lynch, 835 F.3d 553, 555 (6th Cir. 2016)
- Delta Eng’g v. United States, 41 F.3d 259, 261 (6th Cir. 1994)
- United States v. Real Property Located at 2323 Charms Road, 946 F.2d 437, 440 (6th Cir. 1991)
- Dodson v. Saul, No. 20-040, 2021 WL 2809110, at *1 (M.D. Tenn. July 6, 2021)
- Scarborough v. Principi, 541 U.S. 401, 405-19 (2004)

OPINION

Summerlee
PER CURIAM.
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION
TAYLOR S., Case No. 1:25-cv-10670 Plaintiff, Patricia T. Morris United States Magistrate Judge
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant. /

OPINION AND ORDER DENYING

MOTION FOR ATTORNEY FEES (ECF No. 14)

I. ORDER

For the following reasons, the motion for attorney fees (ECF No. 14) IS DENIED WITHOUT PREJUDICE.

II. OPINION

A. Background This is a social security case. The parties have consented to the Undersigned "conducting any or all proceedings in this case, including entry of a final judgment and all post-judgment matters." (ECF No. 5). Before the Court is Plaintiff's counsel's motion for attorney fees under 28 U.S.C. § 2412. (ECF No. 14). On August 15, 2025, Plaintiff filed a motion for summary judgment, arguing the ALJ's decision was not supported by substantial evidence. (ECF No. 10). Pursuant to sentence four of 42 U.S.C. § 405(g), the parties then stipulated that the case should be remanded to the Commissioner for further proceedings. (ECF No. 12). This Court granted the stipulation and entered an order remanding the case on August 27, 2025. (Id. at PageID.709). It issued the final judgment the same day. (ECF No. 13). On November 25, 2025, Plaintiff's counsel filed the instant motion for fees pursuant to 28 U.S.C. § 2412. (ECF No. 14, PageID.711). The government did not respond. B. Legal Standard Where a court renders a judgment favorable to a claimant who was represented by counsel, the court may allocate to that counsel a "reasonable" fee for such representation. 28 U.S.C. § 2412(b). An application for attorney fees under the Equal Access to Justice Act (EAJA),1 including an itemized justification for the amount requested, must be filed within 30 days of final judgment in the action and must "also allege that the position of the United States was not substantially justified." 28 U.S.C. § 2412(d)(1)(B). In addition, a claimant must be an eligible party; that is, one "whose net worth did not exceed $2,000,000 at the time the civil action was filed." 28 U.S.C. § 2412(d)(2)(B). 1 Fees collected under the EAJA are paid by the Commissioner out of its own coffers, whereas fees collected under § 406 are paid out of the claimant's past due benefits. See Scappino v. Comm'r of Soc. Sec. Admin., No. 12-cv-02694, 2015 WL 7756155, at *3 (N.D. Ohio Dec. 1, 2015). A motion for attorney fees under 42 U.S.C. § 406, which is paid out of claimant's accrued benefit, is not before the Court. After eligibility, three conditions must be met in order to recover attorney fees under the EAJA: (1) the claimant must be a prevailing party; (2) the government's position must be without substantial justification; and (3) there must be no special circumstances which would warrant a denial of fees. Ratliff v. Comm'r of Soc. Sec., 465 F. App'x 459, 460 (6th Cir. 2012); Marshall v. Comm'r, 444 F.3d 837, 840 (6th Cir. 2006). The second and third conditions stem from the EAJA's provision that a litigant may not recover attorney fees from the United States if the government's position was substantially justified. The statute reads in pertinent part: Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses . . . incurred by that party in any civil action . . . brought by or against the United States . . . , unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A). Although the plaintiff must allege the government's position was not substantially justified, the government bears the burden of demonstrating substantial justification. E.W. Grobbel Sons, Inc. v. Nat'l Labor Relations Bd., 176 F.3d 875, 878 (6th Cir. 1999); Fields v. Comm'r of Soc. Sec., No. 16-cv-14189, 2019 WL 1253472, at *5 n.2 (E.D. Mich. Jan. 4, 2019), report and recommendation adopted, 2019 WL 643188 (E.D. Mich. Feb. 15, 2019). The second requirement operates to "discourage the government from taking unjustified positions." Jones v. Schweiker, 565 F. Supp. 52, 55 (W.D. Mich. 1983). A position is "substantially justified" if it is "justified to a degree that could satisfy a reasonable person," or has a "reasonable basis in both law and fact." Pierce v. Underwood, 487 U.S. 552, 565 (1988). The government's position should be considered as a whole, including both the underlying agency action and the current litigation. Amezola-Garcia v. Lynch, 835 F.3d 553, 555 (6th Cir. 2016) (citing Delta Eng'g v. United States, 41 F.3d 259, 261 (6th Cir. 1994)). The government's loss raises no presumption that its position was not substantially justified. See United States v. Real Property Located at 2323 Charms Road, 946 F.2d 437, 440 (6th Cir. 1991). C. Discussion While the motion is unopposed, the Court "has an independent obligation to determine the reasonableness of the fee award requested." Dodson v. Saul, No. 20- 040, 2021 WL 2809110, at *1 (M.D. Tenn. July 6, 2021). The EAJA sets out several requirements for a motion for fees. In addition to being timely and showing that the plaintiff was the prevailing party, the amount sought with an itemized statement, and that the plaintiff's net worth did not exceed $2,000,000, The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record . . . which is made in the civil action for which fees and other expenses are sought. 28 U.S.C. § 2412(d)(1)(B) (emphasis added); see also Scarborough v. Principi, 541 U.S. 401, 408 (2004) (reviewing requirements under 28 U.S.C. § 2412(d)(1)(B)). Here, Plaintiff's motion did not allege that the position of the United States was not substantially justified. In Scarborough, 541 U.S. at 405, counsel initially failed to allege the government's position was not substantially justified. "Pointing to that omission, the Government moved to dismiss the fee application. Scarborough's counsel immediately filed an amended application adding that the Government's opposition to the underlying claim for benefits 'was not substantially justified.'" Id. However, the thirty-day filing period had elapsed by then and the district court dismissed the application. Id. The Supreme Court reversed, holding that "a curative amendment is permissible and that Scarborough's fee application, as amended, qualifies for consideration and determination on the merits." Id. at 406. The Supreme Court first clarified the thirty-day deadline for fee applications was not jurisdictional. Id. at 413–14. It then went on to discuss why Congress requires a fee applicant to allege the Government's position was not substantially justified. Id. at 414–19. In doing so, the Supreme Court discussed that the allegation requirement imposes no burden of proof on the applicant—which remains on the government—but that there must still not be a presumption against the Government simply because it lost the case. Id. at 414–15. It concluded: EAJA's ten-word not substantially justified allegation is a think twice prescription that stems the urge to litigate irresponsibly, at the same time, the allegation functions to shift the burden to the Government to prove that its position in the underlying litigation was substantially justified, § 2412(d)(1)(A). Id. at 416 (citation modified). Nevertheless, discussing the purposes of the EAJA, the Supreme Court also noted that "the lapse here should not be fatal where no genuine doubt exists about who is applying for fees, from what judgment, to which court" and that "allowing the curative amendment benefits the complainant directly, and is not fairly described as simply a boon for his counsel." Id. at 417. The Court thus held that the amendment, after the 30-day filing period, related back to include the "not substantially justified" allegation and that "counsel's initial omission of the assertion that the Government's position lacked substantial justification is not beyond repair." Id. at 418–19. The Court thus finds that (1) the "not substantially justified" allegation is a necessary requirement to Plaintiff's motion and (2) the initial omission of that allegation is not fatal to the motion but must be properly amended to assert the requisite standard or the motion would be denied. D. Conclusion For these reasons, IT IS ORDERED that the motion for attorney fees (ECF No. 14) IS DENIED WITHOUT PREJUDICE. Plaintiff is GRANTED fourteen

(14) days from the date of this order to file an amended motion that includes all

necessary requirements. The Government is GRANTED seven (7) days from that date to respond to the motion. IT IS SO ORDERED. Date: January 13, 2026 s/PATRICIA T. MORRIS Patricia T. Morris United States Magistrate Judge