

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Monica Arroyo v. Commissioner of Social Security

Arroyo · No. 2:22-CV-0360-DMC · Decided December 19, 2025

OPINION

Monica Arroyo v. Commissioner of Social Security

PER CURIAM.

1 2 3 4 5 6 7

8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 MONICA ARROYO, No. 2:22-CV-0360-DMC

12 Plaintiff, 13 v. ORDER

14 COMMISSIONER OF SOCIAL

SECURITY,

15 Defendant. 16

17 18 Plaintiff, who is proceeding with retained counsel, brought this action for judicial 19 review
of a final decision of the Commissioner of Social Security under 42 U.S.C. § 405(g). 20 Final
judgement has been entered pursuant to this Court's decision on the merits issued on June 6, 21
2023. See ECF No. 13. Pending before the Court is Plaintiff's counsel's motion for an award of 22
attorney's fees in the amount of \$16,150.00 under 42 U.S.C. § 406(b). See ECF No. 17. Plaintiff
23 was provided notice of counsel's motion and has not filed any response thereto. 24 / / / 25 / / /
26 / / / 27 / / / 28 / / /

1 I. PROCEDURAL HISTORY

2 Plaintiff's representation in this case was provided by way of a February 19, 2022, 3 contingent
fee agreement whereby Plaintiff agreed to pay counsel 25% of any past-due benefits 4 awarded by
the agency if Plaintiff is awarded such benefits following a district court remand, less 5 amounts
already paid to counsel under the Equal Access to Justice Act (EAJA). See ECF No. 17- 6 3.
Plaintiff initiated this action for judicial review of an unfavorable administrative decision on
7 February 24, 2022. See ECF No. 1. Pursuant to this Court's decision on the merits, the matter
8 was remanded for further administrative proceedings. See ECF No. 13. Plaintiff was previously
9 awarded \$7,218.48 in attorney's fees and costs under the Equal Access to Justice Act (EAJA),
10 payable to Plaintiff less any offsets to be determined by the government. See ECF No. 16. 11
On August 9, 2025, the agency provided Plaintiff notice that past-due benefits in 12 the amount of
\$93,457.00 has been awarded and that a total of \$23,364.25 has been withheld, 13 representing

25% of the total past-due benefits awarded. See ECF No. 17-1. 14

15 II. DISCUSSION

16 Under the Social Security Act, “[w]henever a court renders a judgment favorable 17 to a
claimant under this subchapter who was represented before the court by an attorney, the court 18
may determine and allow as part of its judgment a reasonable fee for such representation, not in 19
excess of 25 percent of the total past-due benefits to which the claimant is entitled by reason of 20
such judgment. . . .” 42 U.S.C. § 406(b)(1)(A). No other fee may be payable or certified for such
21 representation except as allowed in this provision. See *id.*

22 The 25 percent statutory maximum fee is not an automatic entitlement, and the
23 court must ensure that the fee actually requested is reasonable. See *Gisbrecht v. Barnhart*, 535
24 U.S. 789, 808-09 (2002). “Within the 25 percent boundary . . . the attorney for the successful
25 claimant must show that the fee sought is reasonable for the services rendered.” *Id.* at 807. “In
26 determining the reasonableness of fees sought, the district court must respect ‘the primacy of
27 lawful attorney-client fee arrangements,’ ‘looking first to the contingent-fee agreement, then 28
testing it for reasonableness.’” *Crawford v. Astrue*, 586 F.3d 1142, 1149 (9th Cir. 2009) (quoting 1
Gisbrecht, 535 U.S. at 793 and 808). 2 The Supreme Court has identified five factors that may be
considered in 3 determining whether a fee award under a contingent-fee agreement is
unreasonable and therefore 4 subject to reduction by the court. See *Crawford*, 586 F.3d at 1151-52
(citing *Gisbrecht*, 535 U.S. 5 at 808). Those factors are: (1) the character of the representation; (2)
the results achieved by the 6 representative; (3) whether the attorney engaged in dilatory conduct
in order to increase the 7 accrued amount of past-due benefits; (4) whether the benefits are large in
comparison to the 8 amount of time counsel spent on the case; and (5) the attorney’s record of
hours worked and 9 counsel’s regular hourly billing charge for non-contingent cases. See *id.* 10
Finally, an award of fees under § 406(b) is offset by any prior award of attorney’s 11 fees granted
under the Equal Access to Justice Act. See *Gisbrecht*, 535 U.S. at 796. 12 The Commissioner has
filed a response to Plaintiff’s counsel’s motion. This 13 filing, however, amounts to nothing more
than a recitation of applicable caselaw and contains 14 nothing in the way of analysis specific to
this case. In particular, the Commissioner’s response 15 does not set forth any reasons why the
Court should deny, in whole or in part, counsel’s motion. 16 The Court, therefore, considers
Plaintiff’s counsel’s motion as unopposed. In this case, having 17 considered the factors above,
the Court finds Plaintiff’s counsel’s request reasonable given the fee 18 agreement with Plaintiff,
the results achieved, and the lack of any evidence of dilatory conduct 19 designed to increase past-
due benefits. In particular, the Court notes that Plaintiff’s counsel has 20 requested substantially
less than 25% of past-due benefits awarded. Finally, in granting 21 Plaintiff’s counsel’s motion,
the Court also notes that the Commissioner stipulated to an award of 22 \$7,218.48 under the
EAJA, which Plaintiff’s counsel appropriately asks be ordered to offset any 23 award requested in
the current motion. 24 /// 25 /// 26 /// 27 /// 28 ///

1 II. CONCLUSION

2 Accordingly, IT IS HEREBY ORDERED as follows: 3 1. Plaintiff's counsel's motion, ECF No.
17, is granted and counsel is 4 | awarded fees pursuant to 42 U.S.C. § 406(b) in the amount of
\$16,150.00, paid to counsel by the 5 || Commissioner of Social Security out of past-due benefits
awarded to Plaintiff and withheld by the 6 || agency, to the extent such benefits have not already
been paid to Plaintiff, and to the extent 7 || counsel has not already been paid by the agency out of
amounts withheld; and 8 2. Counsel shall reimburse to Plaintiff \$7,218.48 previously paid to
counsel 9 || under the EAJA. 10 11 | Dated: December 19, 2025 Ss..c0_,

DENNIS M. COTA

13 UNITED STATES MAGISTRATE JUDGE

14 15 16 17 18 19 20 21 22 23 24 25 26 27 28