

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
ARKANSAS, FORT SMITH DIVISION

Joseph F. Born, II v. Frank Bisignano, Commissioner, Social Security
Administration

Born · No. 2:24-cv-02128-MEF · Decided December 4, 2025

SUMMARY

The United States District Court for the Western District of Arkansas grants Plaintiff Joseph F. Born, II’s motion for attorney fees under the Equal Access to Justice Act. The Court awards \$4,253.30, payable to the plaintiff subject to any valid assignment and offset for federal debts, and notes that the award will be considered when determining any fee under 42 U.S.C. § 406.

CASE DETAILS

COURT	United States District Court for the Western District of Arkansas, Fort Smith Division
WRITING FOR THE COURT	Mark E. Ford
JURISDICTION	United States District Court for the Western District of Arkansas, Fort Smith Division
DECIDED	December 4, 2025
DOCKET	2:24-cv-02128-MEF
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for attorney fees and costs under the Equal Access to Justice Act after prevailing in his Social Security benefits action. The court considered the unopposed motion and awarded the requested fees.
STANDARD OF REVIEW	Under the EAJA, the Commissioner bears the burden of showing that the government's position was substantially justified; the court determines the reasonableness of the hours and requested fee rate.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- attorney fees
- administrative law
- remedies
- civil procedure

PRACTICE AREAS

Social Security

administrative law

attorney fees

federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to an attorney-fee award under the Equal Access to Justice Act.
2. Whether the requested hourly rates and time expended were reasonable under the EAJA.
3. Whether the EAJA award should be payable to Plaintiff or directly to his attorney.

HOLDINGS

1. Plaintiff was entitled to an EAJA fee award because he was the prevailing party and the government's decision to deny benefits was not substantially justified.
2. The requested \$4,253.30 fee was reasonable and did not exceed the applicable EAJA hourly ceiling after consideration of the cost of living.
3. The EAJA award is payable to Plaintiff, but may be paid directly to Plaintiff's attorney if Plaintiff executed a valid assignment of the fee award and owes no outstanding federal debt.

KEY QUOTATIONS

"It is the opinion of the undersigned that the Plaintiff is entitled to a fee award in this case, as he is the prevailing party, the government's decision to deny benefits was not substantially justified, the hourly rate requested for attorney hours does not exceed the CPI for either year in question, and the time asserted to have been spent in the representation of the Plaintiff before the district court is reasonable."

"Based upon the foregoing, Plaintiff is awarded the sum of \$4,253.30 for attorney's fees pursuant to the EAJA, 28 U.S.C. § 2412."

FACTUAL BACKGROUND

Plaintiff requested \$4,253.30 under the EAJA for 19.30 attorney hours performed in 2024 and 2025 at \$206 per hour and 3.70 paralegal hours at \$75 per hour. The Commissioner did not oppose the motion. The court found Plaintiff was the prevailing party, the government's denial of benefits was not substantially justified, the attorney rate did not exceed the applicable cost-of-living-adjusted ceiling, and the hours claimed were reasonable.

PROCEDURAL HISTORY

The underlying action challenged the Commissioner's denial of Social Security benefits. After Plaintiff prevailed, he filed an EAJA fee motion on October 28, 2025, requesting \$4,253.30 for attorney and paralegal services. The Commissioner did not respond within more than 30 days. The court granted the motion and entered an award of \$4,253.30.

DISPOSITION

other

CASES CITED

- Jackson v. Bowen, 807 F.2d 127, 128 (8th Cir. 1986)
- Johnson v. Sullivan, 919 F.2d 503, 504-505 (8th Cir. 1990)
- Hensley v. Eckerhart, 461 U.S. 424, 430 (1983)
- Astrue v. Ratliff, 560 U.S. 586, 596 (2010)

OPINION

Born

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF ARKANSAS

FORT SMITH DIVISION

JOSEPH F. BORN, II PLAINTIFF

v. CIVIL NO. 2:24-cv-02128-MEF FRANK BISIGNANO, Commissioner Social Security Administration DEFENDANT

MEMORANDUM OPINION AND ORDER

Pending now before this Court is Plaintiff's Motion for Attorney Fees Under the Equal Access to Justice Act. (ECF Nos. 17, 18). The parties have consented to the jurisdiction of a Magistrate Judge to conduct all proceedings in this case, and pursuant to said authority, the Court issues this Order. (ECF No. 5). On October 28, 2025, Plaintiff filed a motion for attorney's fees and costs under 28 U.S.C. § 2412, the Equal Access to Justice Act (hereinafter "EAJA"), requesting \$4,253.30, representing a total of 19.30 attorney hours for work performed in 2024 and 2025 at an hourly rate of \$206.00 and 3.70 paralegal hours at an hourly rate of \$75.00. (ECF No. 18-2). Despite the passage of more than 30 days, the Defendant has not filed a response. It is the opinion of the undersigned that the Plaintiff is entitled to a fee award in this case, as he is the prevailing party, the government's decision to deny benefits was not substantially justified, the hourly rate requested for attorney hours does not exceed the CPI for either year in question, and the time asserted to have been spent in the representation of the Plaintiff before the district court is reasonable. See Jackson v. Bowen, 807 F.2d 127, 128 (8th Cir. 1986) (burden is on the Commissioner to show substantial justification for the government's denial of benefits); 28 U.S.C. § 2412(d)(2)(A) (statutory ceiling for an EAJA fee award is \$125.00 per hour); Johnson v. Sullivan, 919 F.2d 503, 504-505 (8th Cir. 1990) (court may determine that there has been an increase in the cost of living, and may thereby increase the attorney's rate per hour, based upon the United States Department of Labor's Consumer Price Index ("CPI")); and, Hensley v. Eckerhart, 461 U.S. 424, 430 (1983) (in determining reasonableness, court looks at time and labor required; the difficulty of questions involved; the skill required to handle the problems presented; the attorney's experience, ability, and reputation; the benefits resulting to the client from the services; the customary fee for similar services; the contingency or certainty of compensation; the results

obtained; and, the amount involved). Accordingly, Plaintiff is entitled to an attorney's fee award under EAJA in the amount of \$4,253.30. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 (2010), the EAJA fee award should be made payable to Plaintiff; however, if the Plaintiff has executed a valid assignment to Plaintiff's attorney of all rights in a fee award and Plaintiff owes no outstanding debt to the federal government, the attorney's fee may be awarded directly to Plaintiff's attorney. The parties are reminded that, to prevent double recovery by counsel for the Plaintiff, the award herein under the EAJA will be considered at such time as a reasonable fee is determined pursuant to 42 U.S.C. § 406. Based upon the foregoing, Plaintiff is awarded the sum of \$4,253.30 for attorney's fees pursuant to the EAJA, 28 U.S.C. § 2412. Dated this 4th day of December 2025. Mark E. Ford /s/
HONORABLE MARK E. FORD
UNITED STATES MAGISTRATE JUDGE