

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, NORFOLK DIVISION

Yvette L. v. Frank Bisignano, Commissioner of Social Security

Lester · No. 2:22cv532 · Decided December 11, 2025

SUMMARY

The United States District Court for the Eastern District of Virginia adopted a magistrate judge’s report and recommendation concerning Plaintiff Yvette L.’s motion for attorney fees under the Equal Access to Justice Act. The Court awarded \$6,963.21 in fees, subject to reduction for qualifying federal debts and without prejudice to counsel’s potential Social Security Act fee request under 42 U.S.C. § 406.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Norfolk Division
WRITING FOR THE COURT	Arenda L. Wright Allen
JURISDICTION	United States District Court for the Eastern District of Virginia, Norfolk Division
DECIDED	December 11, 2025
DOCKET	2:22cv532
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for attorney fees under the Equal Access to Justice Act after Social Security litigation. A magistrate judge recommended granting the motion with a reduction in the amount requested. Neither party objected to the report and recommendation.
STANDARD OF REVIEW	When no timely objection is filed to a magistrate judge's report and recommendation, the district court reviews the record for clear error before accepting the recommendation.
PRECEDENTIAL VALUE	unpublished district court final order; precedential status not specified
PARTIES	Yvette L. v. Frank Bisignano, Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

administrative law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the court should accept the magistrate judge's report and recommendation when neither party filed timely objections.
2. Whether Plaintiff should receive an EAJA attorney-fee award of \$6,963.21 rather than the \$7,300.82 requested.
3. Whether payment of the EAJA award is subject to offset for qualifying pre-existing federal debt and to the statutory treatment of any later award under 42 U.S.C. § 406.

HOLDINGS

1. When no timely objection is filed to a magistrate judge's report and recommendation, the district court need only determine that no clear error appears on the face of the record before accepting the recommendation.
2. Plaintiff is entitled to an EAJA attorney-fee award of \$6,963.21, rather than the \$7,300.82 requested.
3. Payment of the EAJA award is contingent on the Government's determination that Plaintiff has no qualifying pre-existing debt to the Government; any such debt may be offset, and the award remains subject to the statutory relationship between EAJA fees and fees later awarded under 42 U.S.C. § 406.

KEY QUOTATIONS

“when no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”

FACTUAL BACKGROUND

Plaintiff sought \$7,300.82 in attorney fees under the Equal Access to Justice Act for work performed in her Social Security case. The Commissioner challenged the number of hours spent reviewing the administrative record and preparing Plaintiff's brief as excessive and unreasonable. The magistrate judge recommended a reduced award of \$6,963.21, and neither party objected.

PROCEDURAL HISTORY

Plaintiff filed a motion seeking \$7,300.82 in EAJA attorney fees. The Commissioner opposed the motion, arguing that the hours claimed were excessive and unreasonable. Magistrate Judge Lawrence R. Leonard recommended an award of \$6,963.21. After the parties failed to object, the district court reviewed the record for clear error, accepted and adopted the recommendation, and awarded \$6,963.21.

DISPOSITION

other

CASES CITED

- Berry v. Hunt, 13 F. App'x 148, 149 (4th Cir. 2001)
- Astrue v. Ratliff, 560 U.S. 586 (2010)

OPINION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Norfolk Division YVETTE L.1, Plaintiff, v. Civil No. 2:22cv532 FRANK BISIGNANO,2 Commissioner of Social Security, Defendant. FINAL ORDER Before the Court is a Motion for Attorneys' Fees Pursuant to the Equal Access to Justice Act (the "Motion") (ECF No. 18), as well as an Affidavit (ECF No. 19) and a Memorandum (ECF No. 20) in support thereof, filed by Plaintiff Yvette L. ("Plain- tiff") on August 21, 2023.

Therein, Plaintiff sought an award of \$7,300.82 in attorneys' fees. Mot. at 1, ECF No. 18. On August 24, 2023, the Commissioner of Social Security (the "Commissioner") filed a response in opposition to the Motion, arguing that the number of hours expended to review the administrative record and prepare Plaintiff's brief was excessive.1 The Committee on Court Administration and Case Management of the Judicial Conference of the United States has recommended that, due to significant privacy concerns in social security cases, federal courts should refer to claimants only by their first names and last initials.

2 Frank Bisignano is now the Commissioner of Social Security and is automatically substituted as a party pursuant to Federal Rule of Civil Procedure 25(d). and unreasonable. Resp. Opp'n at 1, ECF No. 22. On August 30, 2023, Plaintiff filed her reply. Reply, ECF No. 23. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, and Eastern District of Virginia Local Civil Rule 72, and by order of reference dated July 1, 2025, this matter was referred to United States Magistrate Judge Lawrence R. Leonard ("Judge Leonard") for a report and recommendation ("R&R").

Order, ECF No. 24. On September 12, 2025, Judge Leonard filed an R&R wherein he recommended that Plaintiff's Motion be granted with certain modifications, and that Plaintiff be awarded \$6,963.21 in attorneys' fees. R&R at 12, ECF No. 25. By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge within fourteen days.

Id. at 12–13. Neither party filed any objections. The Motion is therefore ripe for adjudication. When a magistrate judge's disposition has been properly objected to, the district judge must make de novo findings with respect to the portions objected to. Fed. R. Civ. P. 72(b)(3).

However, "when no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Id. (advisory committee's note on rules—1983).3 3 "The timely filing of objections to a magistrate judge's recommendation

is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review.” *Berry v. Hunt*, 13 F. App’x 148, 149 (4th Cir.

2001). As Plaintiff and the Commissioner were so warned, see R&R at 13, ECF No. 25, and did not file objections, appellate review of this Order has been waived. The Court has reviewed the Motion, the R&R, the record, and the governing law, and finds no clear error on the face of the record.

Accordingly, the Court hereby ORDERS and ADJUDGES as follows: 1. The R&R (ECF No. 25) is ACCEPTED and ADOPTED. 2. Plaintiff’s Motion for Attorneys’ Fees Under the Equal Justice Act (ECF No. 18) is GRANTED with modification. Plaintiff shall be awarded \$6,963.21 in attorneys’ fees. 3. It is therefore ORDERED that pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, Plaintiff is awarded attorney fees in the amount of Six Thousand, Nine Hundred Sixty-Three Dollars and 21/100 Cents (\$6,963.21).

Full or partial remittance of the award will be contingent upon a determination by the Government that Plaintiff owes no qualifying, pre-existing debt to the Government. See *Astrue v. Ratliff*, 560 U.S. 586 (2010). If such debt exists, then the Government will reduce the awarded attorneys’ fees in this Order to the extent necessary to satisfy such debt. This award is without prejudice to the rights of Plaintiff’s counsel to seek Social Security Act attorney fees under 42 U.S.C. § 406, subject to the provisions of EAJA.

An amount up to the amount awarded herein shall be refunded directly to Plaintiff by her attorney to the extent that this Court may order payment in this matter pursuant to 42 U.S.C. § 406(b)(1) (A). The Clerk is DIRECTED to please provide a copy of this Order to all counsel of record. IT IS SO ORDERED. /s/ Arenda L. Wright Allen United States District Judge December 11, 2025 Norfolk, Virginia