UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Lupe Espinoza v. Leland Dudek

Espinoza · No. 1:24-cv-01259-GSA · Decided March 6, 2025

SUMMARY

This document is a stipulation and order awarding Plaintiff $881.44 in attorney fees and expenses under the Equal Access to Justice Act, plus $0.00 in costs, in a Social Security action. The United States District Court for the Eastern District of California approved the parties' stipulation on March 5, 2025, subject to provisions concerning assignment, Treasury offsets, and potential fees under 42 U.S.C. § 406(b).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
DECIDED	March 6, 2025
DOCKET	1:24-cv-01259-GSA
DISPOSITION	other
PROCEDURAL POSTURE	The parties stipulated to an award of attorney fees and expenses under the Equal Access to Justice Act after Plaintiff prevailed in the civil action. The court approved the stipulation and ordered an award of $881.44 in fees and expenses and $0.00 in costs.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Lupe Espinoza v. Leland Dudek, Acting Commissioner of Social Security

TOPICS

attorney fees · costs · administrative procedure act · remedies

PRACTICE AREAS

Social Security · administrative law · attorney fees

QUESTIONS PRESENTED

1. Whether the court should approve the parties' stipulation awarding Plaintiff $881.44 in attorney fees and expenses under the Equal Access to Justice Act.
2. Whether costs should be awarded under 28 U.S.C. § 1920.

HOLDINGS

1. The court approved the parties' stipulation and awarded Plaintiff $881.44 in fees and expenses under the Equal Access to Justice Act, subject to the terms of the stipulation.
2. The court awarded $0.00 in costs under 28 U.S.C. § 1920.

KEY QUOTATIONS

> *"IT IS ORDERED that fees and expenses in the amount of EIGHT HUNDRED EIGHTY-ONE DOLLARS AND 44/100 ($881.44) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars ($0.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation."* (Order at 1)

FACTUAL BACKGROUND

The parties agreed that Plaintiff was the prevailing party and that Plaintiff's net worth did not exceed $2,000,000 when the action was filed. They stipulated to $881.44 in attorney fees and expenses under the EAJA and $0.00 in costs under 28 U.S.C. § 1920. The stipulation addressed payment to Plaintiff or Plaintiff's attorney depending on assignment, Treasury Offset Program obligations, and waiver of the Anti-Assignment Act.

PROCEDURAL HISTORY

Plaintiff brought a Social Security action in the Eastern District of California. After Plaintiff became the prevailing party, the parties submitted a stipulation requesting an EAJA award. The magistrate judge approved the stipulation on March 5, 2025.

DISPOSITION

other

CASES CITED

- Astrue v. Ratliff, 130 S. Ct. 2521, 2528-29 (2010)

OPINION

(SS) Espinoza v. Commissioner of Social Security
PER CURIAM.
1 Jonathan O. Peña, Esq. 2 CA Bar ID No.: 278044 Peña & Bromberg, PLC 3 3467 W. Shaw Ave., Ste 100 4 Fresno, CA 93711 Telephone: 559-439-9700 5 Facsimile: 559-439-9723 6 Email: info@jonathanpena.com Attorney for Plaintiff, Lupe Espinoza 7 8
9 UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

Lupe Espinoza, Case No. 1:24-cv-01259-GSA Plaintiff, STIPULATION FOR THE AWARD

AND PAYMENT OF ATTORNEY

v. FEES AND EXPENSES PURSUANT

TO THE EQUAL ACCESS TO

Leland Dudek[1], ACTING JUSTICE ACT; ORDER

COMMISIONER OF SOCIAL

SECURITY, (Doc. 13) Defendant. IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of EIGHT HUNDRED EIGHTY-ONE DOLLARS AND 44/100 ($881.44) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars ($0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d). Plaintiff was the prevailing party in this matter and Plaintiff is an individual whose net worth does not exceed $2,000,000 at the time the civil action was filed. After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Under Astrue v. Ratliff, 130 S. Ct. 2521, 2528-29 (2010), EAJA fees awarded by this Court belong to the Plaintiff and are subject to offset under the Treasury Offset Program (31 U.S.C. § 3716(c)(3)(B) (2006)). Any EAJA fees should therefore be awarded to Plaintiff and not to Plaintiff's attorney. If, after receiving the Court's EAJA fee order, the Commissioner (1) determines that Plaintiff has assigned his right to EAJA fees to his attorney; (2) determines that Plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program, and (3) agrees to waive the requirements of the Anti-Assignment Act, then the EAJA fees will be made payable to Plaintiff's attorney, JONATHAN O. PEÑA-MANCINAS at the firm, PEÑA & BROMBERG, PC. However, if there is a debt owed under the Treasury Offset Program, the Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be paid by a check or electronic fund transfer (EFT) made out to Plaintiff, but delivered to Plaintiff's attorney, JONATHAN O. PEÑA-MANCINAS at the firm, PEÑA & BROMBERG, PC. This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or

[1] Leland Dudek became the Acting Commissioner of Social Security on February 16, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek should be substituted for Michelle King as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney fees in connection with this action. The parties further agree that the EAJA award is without prejudice to the right of Plaintiff's attorney to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. See 28 U.S.C. § 2412(c)(1) (2006). Respectfully submitted, Dated: March 5, 2025 /s/ Jonathan O. Peña

J ONATHAN O. PEÑA

Attorney for Plaintiff Dated: March 5, 2025 MICHELE BECKWITH United States Attorney

MATHEW W. PILE

Associate General Counsel Office of Program Litigation Social Security Administration By: _*_Justin Lane Martin Justin Lane Martin Special Assistant U.S. Attorney Attorneys for Defendant (*Permission to use electronic signature obtained via email on March 5, 2025).

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"), IT IS ORDERED that fees and expenses in the amount of EIGHT HUNDRED EIGHTY-ONE DOLLARS AND 44/100 ($881.44) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars ($0.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED. Dated: March 5, 2025 /s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE

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