

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

Burgos-Suarez v. Bisignano

No. 24-1098 (HRV) (D.P.R. Mar. 20, 2026) · No. 24-1098 (HRV) · Decided March 20, 2026

OPINION

1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF PUERTO RICO 3
4 HOMMY BURGOS-SUAREZ, 5 Plaintiff, 6 v. 7 CASE NO. 24-1098 (HRV) 8 FRANK J
BISIGNANO, Commissioner of Social Security, 9 Defendant. 10 11 OPINION AND ORDER 12
13 Pending before the Court is the “Petition for Authorization of Attorney’s Fee 14 Pursuant to the
Social Security Act § 206(b)” filed by Attorney Pedro Cruz-Sánchez 15 (“Attorney Cruz-
Sánchez”).

(Docket No. 24). Attorney Cruz-Sánchez moves the Court to 16 authorize an award of \$20,000.00
under 42 U.S.C. § 406(b) and in accordance with the 17 contingency fee contract he had with
Plaintiff Hommy Burgos-Suarez.

The 18 19 Commissioner of Social Security (hereinafter, “the Commissioner”) does not oppose 20
Attorney Cruz-Sánchez’s request for attorney fees. (Docket No. 26). For the reasons set 21 forth
below, the motion for attorneys’ fees is GRANTED, provided that the fees 22 previously awarded
by the Court under the Equal Access to Justice Act (“EAJA”), 28 23 U.S.C. § 2412(d), be
refunded to Plaintiff.

24 25 I. BACKGROUND 26 Plaintiff signed a contingency fee agreement with Attorney Cruz-
Sánchez in which 27 Plaintiff agreed to pay Attorney Cruz-Sánchez Section 406(b) fees that could
be 28 1 1 requested and capped at 25% of any past-due Social Security Benefits. (Docket No. 24-
2 1). Attorney Cruz-Sánchez represented Plaintiff before this Court seeking review of an 3
unfavorable decision by the Commissioner denying his claim of disability benefits.

4 (Docket Nos. 3, 14). After Plaintiff submitted his brief, on August 23, 2024, the 5 Commissioner
filed a consent motion to remand the case for further administrative 6 7 proceedings pursuant to
sentence four of 42 U.S.C. § 405(g). (Docket No. 19).

The Court 8 obliged and judgment remanding the case was entered accordingly on that same date.
9 (Docket Nos. 20, 21). 10 Subsequently, on September 17, 2024, Plaintiff filed a motion for
attorney’s fees 11 and costs under the EAJA, 28 U.S.C. § 2412. (Docket No. 22).

The Commissioner 12 13 stipulated as to the amount in Plaintiff’s motion for EAJA fees. (Id.).
The Court awarded 14 counsel \$8,250.00 in attorney’s fees and costs under the EAJA. (Docket
No. 23). 15 On February 22, 2026, the Social Security Administration issued a Notice of 16 Award

(“NOA”) granting Plaintiff past due benefits in the amount of \$116,133.00 from 17 November 2019 through December 2025.

(Docket No. 24-2). On March 3, 2026, Plaintiff 18 19 counsel received notice that the Commissioner issued a favorable decision on remand. 20 (Docket No. 24). In awarding past due benefits to Plaintiff, the Commissioner withheld 21 \$29,033.25 for attorneys’ fees, calculated to be 25% of the total amount due. (Id. at 3). 22 Of said amount, \$6,000.00 were paid to counsel for work related to the second hearing 23 held at the administrative level.

The remaining \$23,033.25 were withheld for Attorney 24 Cruz-Sánchez’s work before this Court. (Docket No. 24-2). 25 26 On March 5, 2026, Attorney Cruz-Sánchez requested the payment of attorney’s 27 fees pursuant to Section 406(b). (Docket No. 24). Plaintiff’s counsel requests 28 2 1 \$20,000.00 in attorney’s fees which is lower than Section 406(b)’s 25% cap.

He sustains 2 that the request is reasonable, and the motion was timely filed. (Id.). The Commissioner 3 neither supports nor opposes the request. (Docket No. 26). It merely points out that any 4 EAJA award must be refunded. (Id.). 5 6 II. APPLICABLE LAW 7 Section 206(b) of the Social Security Act provides that “[w]henever a court 8 renders a judgment favorable to a claimant under this subchapter who was represented 9 before the court by an attorney, the court may determine and allow as part of its 10 judgment a reasonable fee for such representation, not in excess of 25 percent of the total 11 of the past-due benefits to which the claimant is entitled by reason of such judgment....” 12 13 42 U.S.C. § 406(b).

Even though the statute does not specify a deadline for requesting 14 attorneys’ fees, the District of Puerto Rico Local Rules provide that 15 [a] party seeking attorneys’ fees pursuant to 42 U.S.C. § 16 406(b) shall have thirty (30) days after counsel’s receipt of the original, amended, or corrected Notice of Award, or the Social 17 Security Correspondence sent at the conclusion of the Agency’s past-due benefit calculation, stating the amount 18 withheld.

The Commissioner shall have thirty (30) days after 19 receipt of the request to respond. 20 D.P.R. Local Civ. R. 9(d)(2) (March 4, 2022) (Misc. 03-115 (RAM), Docket No. 71-1). 21 The Supreme Court has held that contingent fee agreements are permissible in 22 matters involving Social Security benefits claimants. See *Gisbrecht v. Barnhart*, 535 U.S. 23 789, 807 (2002).

However, the Court must be satisfied “that the fee sought is reasonable 24 for the services rendered... based on the character of the representation and the results 25 26 the representative achieved.” Id. at 807-08. Factors relevant to reasonableness include: 27 (1) whether the attorney’s representation was substandard; (2) whether the attorney was 28 3 1 responsible for any delay in the resolution of the case; and (3) whether the contingency 2 fee is disproportionately large in comparison to the amount of time spent on the case.

Id. 3 at 808. The claimant's attorney can also be required to submit a record of the hours spent 4 representing the claimant and a statement of the lawyer's normal billing rate for non- 5 contingency fee cases. Id. "If the benefits are large in comparison to the amount of time 6 7 counsel spent on a case, a downward adjustment is similarly in order." Id. (citations 8 omitted).

And, if Plaintiff's attorney received fees pursuant to the EAJA, the attorney 9 must refund the smaller fee amount to Plaintiff. See *Gisbrecht*, 535 U.S. at 796. 10 III. DISCUSSION 11 A. Timeliness 12 13 The NOA letter is dated February 22, 2026, but was received by Plaintiff and 14 counsel on March 3, 2026. (Docket Nos. 24 and 24-2). Counsel filed the motion for 15 attorneys' fees on March 5, 2026.

(Docket No. 24). A thirty-day filing deadline applies 16 to 406(b) motions and the countdown to this deadline begins upon delivery of an original 17 or amended NOA to counsel. D.P.R. Civ. R. 9(d)(2); see also *Pais v. Kijakazi*, 52 F.4th 18 19 486, 494 (1st Cir. 2022).

As such, the motion is timely. 20 B. Reasonableness of Fees 21 Plaintiff's counsel requests a total of \$20,000.00 in attorneys' fees. (Docket No. 22 24). In support thereof, he submits proof at Docket No. 24-3 that he spent 35.9 hours in 23 this case at a rate of \$700.00 per hour. Attorney Cruz-Sánchez acknowledges that the 24 sum adds up to \$25,130.00 but he is only requesting \$20,000.00.

(Docket No. 24 at p. 25 26 2). As noted, the Commissioner does not oppose counsel's fee amount in this matter. 27 28 4 1 It is up to the courts to determine whether a fee amount requested pursuant to 2 406(b) is reasonable. See *Alvarez-Roman v. Comm'r of Soc. Sec.*, 2025 WL 712998, at 3 *4 (D.P.R. Mar. 5, 2025).

Here, the fee requested conforms with Plaintiff's contingent fee 4 agreement and complies with the statutory cap by not exceeding the 25 percent statutory 5 limit. There is also no indication that the terms of the contingent fee agreement reached 6 7 by Plaintiff and Attorney Cruz-Sánchez were unreasonable. See *Alvarez-Roman v. 8 Comm'r of Soc. Sec.*, 2025 WL 712998, at *4 ("Though courts have the duty to serve as 9 an independent check regarding the reasonableness of fees requested pursuant to § 10 406(b), this duty must be balanced against a client and his attorney's free and willful 11 decision to enter into a contingency-fee agreement and their right to have that agreement 12 13 upheld").

Additionally, Plaintiff's counsel's work in this Court was not substandard. On 14 the contrary, it prompted a motion for remand that subsequently resulted in a favorable 15 decision at the agency level and an award of past due benefits.

Third, there is no 16 indication of undue delay or improper conduct by counsel. Finally, the effective hourly 17 rate is consistent with (in fact lower) amounts courts in this circuit have previously 18 19 deemed reasonable. See, e.g., *Alvarez-Roman v. Comm'r of Soc. Sec.*, 2025 WL

12998 at 20 *4-5 (D.P.R. Mar. 5, 2025) (approving de facto rate of \$864.52); Piñeiro-Fuentes v. 21 Comm’r of Soc.

Sec., No. 18-CV-1556 (MDM), 2023 WL 6605907, 2023 U.S. Dist. LEXIS 22 6605907, at *14 (D.P.R. Oct. 10, 2023) (approving de facto hourly rate of \$1,010 for 19.8 23 hours of work on case involving post-briefing voluntary remand); Heather C. v. Dudek, 24 No. 22-cv-103-SDN, 2025 WL 1359208, 2025 U.S. Dist. LEXIS 88674, at *4 (D. Me. May 25 26 9, 2025) (approving a Section 406(b) fee award with an effective hourly rate of 27 \$2,158.20); Christopher H. v. Kijakazi, No. 28-cv-00355, 2022 U.S. Dist.

LEXIS 224823, 28 5 1 2022 WL 17668469, at *1 (D. Me. Dec. 14, 2022) (approving a Section 406(b) fee with 2 an effectively hourly rate of \$1,190.48); Weed v. Colvin, No. 14-cv-271, 2016 U.S. Dist. 3 LEXIS 92101, 2016 WL 3919849, at *2-3 (D. Me. July 15, 2016) (approving a Section 4 406(b) fee with an effective hourly rate of \$1,279.56). 5 6 IV. CONCLUSION 7 Accordingly, the “Petition for Authorization of Attorney’s Fee Pursuant to the 8 Social Security Act § 206(b)” (Docket No. 24) is GRANTED in full and the Court 9 ORDERS that the amount of \$20,000.00 be paid to Attorney Cruz-Sánchez from 10 Plaintiff’s past-due benefits.

Counsel is ordered to refund to Plaintiff the amount 11 previously awarded pursuant to EAJA. 12 13 IT IS SO ORDERED. 14 In San Juan, Puerto Rico this 20th day of March, 2026. 15 S/Héctor L. Ramos-Vega 16 HÉCTOR L. RAMOS-VEGA UNITED STATES MAGISTRATE JUDGE 17 18 19 20 21 22 23 24 25 26 27 28 6