

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
OKLAHOMA

John William Wild v. Frank J. Bisignano, Commissioner of the Social
Security Administration

Wild · No. CIV-24-10-GLJ · Decided January 23, 2026

SUMMARY

The United States District Court for the Eastern District of Oklahoma grants Claimant’s motion for attorney fees under 42 U.S.C. § 406(b) following a remand that resulted in an award of Social Security disability benefits. The court approves \$22,183.20 in fees, addresses the timeliness of the motion and reasonableness of the award, and directs counsel to refund the previously received EAJA fee to the claimant.

CASE DETAILS

COURT	United States District Court for the Eastern District of Oklahoma
WRITING FOR THE COURT	Gerald L. Jackson
JURISDICTION	United States District Court for the Eastern District of Oklahoma
DECIDED	January 23, 2026
DOCKET	CIV-24-10-GLJ
DISPOSITION	approved
PROCEDURAL POSTURE	After remand from an earlier order concerning the denial of Social Security benefits, the claimant moved under 42 U.S.C. § 406(b) for approval of attorney fees from past-due benefits.
STANDARD OF REVIEW	The court independently reviewed the timeliness and reasonableness of the requested § 406(b) fee award, applying the standards governing Rule 60(b)(6), Gisbrecht, and § 406(b).
PRECEDENTIAL VALUE	Unknown
PARTIES	John William Wild v. Frank J. Bisignano, Commissioner of the Social Security Administration

TOPICS

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

PRACTICE AREAS

Social Security

administrative law

attorney fees

remedies

QUESTIONS PRESENTED

1. Whether the claimant's motion for attorney fees under 42 U.S.C. § 406(b) was timely when filed eighty-three days after issuance of the Notice of Award but one day after counsel received it.
2. Whether the requested \$22,183.20 attorney-fee award was reasonable under § 406(b), the contingent-fee agreement, and the factors identified in *Gisbrecht v. Barnhart*.
3. Whether counsel was required to refund the previously received EAJA fee to the claimant and recover any amount not available from withheld past-due benefits from the claimant rather than from those benefits.

HOLDINGS

1. A motion for attorney fees under 42 U.S.C. § 406(b) must be filed within a reasonable time after receipt of the Notice of Award; in this case, the motion was timely because counsel filed it promptly after first receiving the notice, the Commissioner did not object, and the circumstances justified excusing the eighty-three-day period from issuance of the notice.
2. The court may approve a reasonable fee for successful representation in court under § 406(b), provided it does not exceed 25% of the claimant's past-due benefits; the requested \$22,183.20 fee was reasonable and was approved.
3. The attorney may recover only the balance of withheld past-due benefits available up to the approved § 406(b) amount and must recover any shortfall from the claimant personally; because the § 406(b) award exceeded the EAJA award, counsel must refund the \$6,041.10 EAJA fee to the claimant and may not net that amount against the § 406(b) award.

KEY QUOTATIONS

*“The Court therefore finds that the requested fee of \$22,183.20 is reasonable within the guidelines set by *Gisbrecht*.”*

“Claimant’s attorney will have to recover the difference from Claimant himself, not his past-due benefits.”

“Counsel may not, as Claimant’s brief seems to imply, treat the EAJA award as a credit against Claimant’s account or otherwise “net out” the EAJA award against their Section 406(b) award.”

FACTUAL BACKGROUND

The claimant ultimately was found disabled on remand and received \$118,603 in past-due benefits. His counsel requested \$22,183.20 in fees under 42 U.S.C. § 406(b), representing approximately 18.7% of the past-due benefits, after counsel had spent 25.8 hours on the federal appeal. Counsel had also received \$6,041.10 under the Equal Access to Justice Act.

PROCEDURAL HISTORY

The claimant appealed the Commissioner's denial of benefits. On March 12, 2025, the court remanded for further administrative action. On remand, the ALJ found the claimant disabled and awarded past-due benefits. The claimant then moved for attorney fees under § 406(b), and the court granted the motion and approved an award of \$22,183.20.

DISPOSITION

approved

CASES CITED

- McGraw v. Barnhart, 450 F.3d 493, 504-05 (10th Cir. 2006)
- Harbert v. Astrue, 2010 WL 3238958, at *1 n.4 (E.D. Okla. Aug. 16, 2010)
- Wrenn v. Astrue, 525 F.3d 931, 933, 937 (10th Cir. 2008)
- Gisbrecht v. Barnhart, 535 U.S. 789, 796, 807-08 (2002)
- McGuire v. Sullivan, 873 F.2d 974, 983 (7th Cir. 1989)
- Lewis v. Secretary of Health & Human Services, 707 F.2d 246, 249-50 (6th Cir. 1983)
- Rodriguez v. Bowen, 865 F.2d 739, 741, 746-47 (6th Cir. 1989)
- Wells v. Sullivan, 907 F.2d 367, 372 (2d Cir. 1990)
- Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986)

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