

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

Amor Ayala v. Frank Bisignano, Commissioner of Social Security

Ayala · No. Civ. No. 24-1209 DHU/JFR · Decided February 3, 2026

SUMMARY

The document is a magistrate judge’s Proposed Findings and Recommended Disposition on Plaintiff Amor Ayala’s opposed motion for attorney fees under the Equal Access to Justice Act. It recommends granting the motion because the Commissioner’s position was not substantially justified and the harmless-error argument was not reasonable, awarding \$11,565.00 in attorney fees plus \$3,777.90 for fee litigation.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	F. Robbenhaar
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	February 3, 2026
DOCKET	Civ. No. 24-1209 DHU/JFR
DISPOSITION	other
PROCEDURAL POSTURE	Proposed findings and recommended disposition on Plaintiff's opposed motion for attorney fees under the Equal Access to Justice Act following remand of the Social Security case to the Social Security Administration.
STANDARD OF REVIEW	The government bears the burden of showing that its position was substantially justified, which is evaluated for reasonableness in law and fact. The court evaluates the government's position as a whole, including both the administrative position and the litigation position. Harmless error requires a showing that no reasonable administrative factfinder, applying the correct analysis, could have reached a different result.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Amor Ayala v. Frank Bisignano, Commissioner of Social Security

TOPICS

attorney fees

judicial review of agency action

administrative law

remedies

civil procedure

PRACTICE AREAS

Social Security

administrative law

federal civil procedure

attorney fees

QUESTIONS PRESENTED

1. Whether the Commissioner's position was substantially justified under the Equal Access to Justice Act.
2. Whether the Commissioner's harmless-error argument constituted a reasonable litigation position capable of curing the unreasonable agency action.
3. Whether Ayala was entitled to EAJA attorney fees, including compensation for litigating the fee request.

HOLDINGS

1. The Commissioner's position as a whole was not substantially justified because the Commissioner did not establish that the agency's failure to resolve the apparent conflict between the Dictionary of Occupational Titles and the vocational-expert testimony was legally and factually reasonable.
2. The Commissioner's harmless-error argument was not reasonable under the recognized EAJA exception because the proposed harmless-error determination would have required the court to supply a missing, fact-specific dispositive finding that should have been made by the ALJ.
3. Ayala was entitled to \$11,565 in EAJA attorney fees and an additional \$3,777.90 for litigating the EAJA fee request.

KEY QUOTATIONS

“The test for substantial justification is one of reasonableness in law and fact.”

“Harmless error applies if “no reasonable administrative factfinder, following the correct analysis, could have resolved the factual matter in any other way.””

““[J]udicial line-drawing in this context is inappropriate.””

FACTUAL BACKGROUND

The administrative law judge denied Ayala's application for supplemental security income after relying on vocational-expert testimony identifying jobs available in the national economy. The ALJ did not resolve an apparent conflict between the Dictionary of Occupational Titles and the vocational expert's testimony, and the court found that the determination concerning the number of available jobs was not supported by substantial evidence. After excluding the disputed document-preparer job, 50,000 jobs remained, but the court concluded that it could not decide in the first instance that this number was significant under harmless-error review.

PROCEDURAL HISTORY

Ayala sought judicial review of the Commissioner's denial of supplemental security income. The court previously found that the administrative law judge failed to resolve an apparent conflict between the Dictionary

of Occupational Titles and vocational-expert testimony and failed to support the number of available national jobs with substantial evidence, and recommended remand. The district court adopted the recommendation and remanded the matter to the Social Security Administration. Ayala then moved for \$11,565 in EAJA attorney fees and requested an additional \$3,777.90 for fee litigation; the magistrate judge recommended granting both requests.

DISPOSITION

other

REMAND INSTRUCTIONS

The recommendation concerns attorney fees rather than a new merits remand. It recommends that the district court grant Ayala's EAJA motion, award \$11,565 in attorney fees, and award an additional \$3,777.90 for litigating the fee request. The parties were permitted 14 days to object.

CASES CITED

- Hackett v. Barnhart, 475 F.3d 1166, 1170, 1172-73 (10th Cir. 2007)
- Kemp v. Bowen, 822 F.3d 966, 967 (10th Cir. 1987)
- Gilbert v. Shalala, 45 F.3d 1391, 1394 (10th Cir. 1995)
- Pierce v. Underwood, 487 U.S. 552, 565 (1988)
- Hadden v. Bowen, 851 F.2d 1266, 1269 (10th Cir. 1988)
- Allen v. Barnhart, 357 F.3d 1140, 1140, 1144-45 (10th Cir. 2004)
- Raymond v. Astrue, 621 F.3d 1269, 1273-75 (10th Cir. 2010)
- Stokes v. Astrue, 274 F. App'x 675, 684 (10th Cir. 2008)
- Rogers v. Astrue, 312 F. App'x 138, 142 (10th Cir. 2009) (unpublished)
- Evans v. Colvin, 640 F. App'x 731, 733, 735-37 (10th Cir. 2016) (unpublished)
- Groberg v. Astrue, 505 F. App'x 763, 765-66 (10th Cir. 2012)
- Lashawnda N. J. v. Kijakazi, 2021 WL 9639635, at *3 (N.D. Okla. Sept. 30, 2021)
- Commissioner, INS v. Jean, 496 U.S. 154, 161 (1990)

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