

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

Jose M. U. v. Frank Bisignano, Commissioner of Social Security

Jose M. U. · No. 20-cv-00469-SH · Decided May 26, 2026

SUMMARY

The United States District Court for the Northern District of Oklahoma denied counsel’s motion under Federal Rule of Civil Procedure 60(b)(6) to deem timely a request for attorney fees under 42 U.S.C. § 406(b). The court held that the motion, filed more than eight months after the Notice of Award and nearly seven months after counsel received it, was not made within a reasonable time because the delay was unexplained.

CASE DETAILS

COURT	United States District Court for the Northern District of Oklahoma
JURISDICTION	United States District Court for the Northern District of Oklahoma
DECIDED	May 26, 2026
DOCKET	20-cv-00469-SH
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved under Federal Rule of Civil Procedure 60(b)(6) for relief from the timing requirements governing a motion for attorney fees under 42 U.S.C. § 406(b), and separately moved for § 406(b) fees. The district court denied both motions as untimely.
STANDARD OF REVIEW	Whether a Rule 60(b)(6) motion was filed within a reasonable time is committed to the district court's sound discretion.
PRECEDENTIAL VALUE	Unknown; district court opinion
PARTIES	Jose M. U. v. Frank Bisignano, Commissioner of Social Security

TOPICS

- attorney fees
- motion for reconsideration
- civil procedure
- administrative law
- remedies

PRACTICE AREAS

- Social Security
- civil procedure
- attorney fees
- administrative law

QUESTIONS PRESENTED

1. Whether counsel's Rule 60(b)(6) motion seeking permission to file a § 406(b) fee request was filed within a reasonable time.
2. Whether counsel was entitled to an award of attorney fees under 42 U.S.C. § 406(b).

HOLDINGS

1. A motion seeking a § 406(b) fee award through Rule 60(b)(6) must be filed within a reasonable time of the Commissioner's decision awarding benefits. Counsel's motion, filed more than eight months after the award and nearly seven months after counsel received notice, was untimely because the delay was unexplained and unreasonable.
2. Because counsel's Rule 60(b)(6) motion was untimely, the court denied the related motion for attorney fees under 42 U.S.C. § 406(b).

KEY QUOTATIONS

“In accordance with Rule 60, any fee request under § 406(b) must be filed “within a reasonable time of the Commissioner’s decision awarding benefits.””

“As such, the delay remains unexplained.”

“For these reasons, the Court finds the Rule 60(b) motion was not made within a reasonable time, as required by Rule 60(c)(1).”

FACTUAL BACKGROUND

The court had previously reversed and remanded the Commissioner's Social Security decision, after which the Commissioner awarded Plaintiff monthly disability benefits and \$197,912 in past-due benefits. Counsel received the Notice of Award on July 12, 2025 but did not seek § 406(b) fees until February 2, 2026, more than seven months later. Counsel provided no factual explanation for the delay despite being given an additional opportunity to do so.

PROCEDURAL HISTORY

Counsel filed a Social Security appeal on September 22, 2020. The court reversed and remanded the Commissioner's decision on February 16, 2022. After the Commissioner issued a Notice of Award on May 26, 2025, and counsel received it on July 12, 2025, counsel filed the fee motion and Rule 60(b)(6) motion on February 2, 2026. After allowing counsel to supplement the motion and explain the delay, the court found the delay unexplained and denied both motions.

DISPOSITION

other

CASES CITED

- McGraw v. Barnhart, 450 F.3d 493, 505 (10th Cir. 2006)
- Vasquez v. Berryhill, No. CV 14-903 KK, 2018 WL 4685567, at *3 (D.N.M. Sept. 28, 2018)
- Cox v. Saul, No. CV 17-2556-JWL, 2021 WL 1238251, at *3 (D. Kan. Apr. 2, 2021)
- Lambert v. Kijakazi, No. 21-CV-00002-REB, 2023 WL 2623110, at *1 (D. Colo. Mar. 22, 2023)
- Bernal v. Astrue, 611 F. Supp. 2d 1217, 1220 (N.D. Okla. 2009)

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