

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Jesse Wampole v. Commissioner of Social Security Administration

No. CV-24-00919-PHX-DJH, United States District Court for the District of Arizona (April 9, 2026)

OPINION

Wampole

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Jesse Wampole, No. CV-24-00919-PHX-DJH 10 Plaintiff, ORDER 11 v. 12 Commissioner of
Social Security Administration, 13 Defendant. 14 15 Plaintiff Jesse Wampole (“Plaintiff”) filed a
Motion for the Payment of Attorney 16 Fees pursuant to 42 U.S.C. § 406(b) (Doc. 19), seeking an
award of \$9,258.50. Plaintiff’s 17 Motion was backed by the Declaration of Rory Linerud,
Plaintiff’s counsel. (See Doc. 20). 18 The Social Security Administration (“SSA”) Commissioner
(the “Commissioner”) filed a 19 Response (Doc. 21) neither supporting nor opposing the award
sought. 20 I. Background 21 Nikki Wampole originally filed Applications for Social Security
Disability 22 Insurance benefits and Supplemental Security Income. (Doc. 1 at 2). On July 13,
2023, 23 The ALJ determined that Nikki Wampole was not disabled under the SSA. Ms. Wampole
24 passed away on January 4, 2024, and, as her next of kin, Plaintiff proceeded on Ms. 25
Wampole’s behalf. The ALJ’s decision became the final agency decision after the Appeals 26
Council denied review on March 27, 2024. (Id.). Plaintiff then sought judicial review of 27 the
ALJ’s decision. (See id.). On August 8, 2024, the parties filed a Stipulated Motion to 28 Remand,
requesting that the Court reverse and remand the ALJ’s decision for further 1 proceedings. (See
Doc. 13). The Court granted the parties’ Stipulated Motion on August 2 14, 2024. In accordance
with the parties’ stipulation, the Court also issued Plaintiff an 3 award of \$8,150.00 in attorney
fees and costs under the Equal Access to Justice Act 4 (“EAJA”). (Doc. 18). 5 On remand,
Plaintiff received a favorable decision, and, of the awarded amount, 6 \$9,258.50 was set aside to
pay Plaintiff’s representative. (Doc. 20-1 at 1). The SSA stated, 7 in their decision, that \$9,258.50
represented 25% of Plaintiff’s past due benefits. (Id.) 8 Therefore, it can be inferred that Plaintiff’s
total award was approximately \$37,034.00. 9 Pursuant to the fee agreement, Plaintiff’s counsel
now seeks \$9,258.50 in attorney fees. 10 II. Legal Standard

11 Section 4061 establishes “the exclusive regime for obtaining fees for successful

12 representation of Social Security benefits claimants.” *Gisbrecht v. Barnhart*, 535 U.S. 789, 13
795–96 (2002). Section 406(b) provides that “[w]henever a court renders a judgment 14 favorable
to a claimant . . . who was represented before the court by an attorney, the court 15 may determine

and allow as part of its judgment a reasonable fee for such representation, 16 not in excess of 25 percent of the total of the past-due benefits to which the claimant is 17 entitled by reason of such judgment” 42 U.S.C. § 406(b)(1)(A). Fees are payable out 18 of, and not in addition to, the amount of the past-due benefits. *Id.* Before awarding fees, 19 the Court must consider whether the 42 U.S.C. § 406(b) fee requested is (1) within the 20 statutory guidelines; (2) consistent with the fee agreement; and (3) reasonable in light of 21 the contingent-fee agreement. *Gisbrecht*, 535 U.S. at 807–08. 22 III. Discussion 23 Plaintiff’s counsel is seeking \$9,258.50 in § 496(b) fees. (Doc. 20 at 1). Upon 24 review of Plaintiff’s Memorandum, the time expended and the amounts charged by 25 Plaintiff’s counsel are reasonable in this case. First, the fees sought adhere to § 406(b)’s 26 guidelines. Plaintiff was awarded around \$37,034.00 in past-due benefits, and the 27 requested \$9,258.50 in attorney fees equals 25% of the award. Second, this amount is 28 1 Unless where otherwise noted, all Section references are to the Social Security Act. 1 || consistent with the fee agreement which clearly states that Plaintiff’s attorney would be 2|| entitled to 25% of past-due benefits. (Doc. 20-2 at 1). Lastly, the requested fee is 3|| reasonable given the contingent-fee agreement because it reflects the nature of the recovery. (Doc. 20 at 2). In sum, the Court finds that the amount requested is reasonable || under *Gisbrecht* and will award Plaintiff \$9,258.50 in § 406(b) fees. 6 However, Plaintiff requests that, instead of refunding the previous award of || \$8,150.00 under the EAJA, the EAJA be subtracted from \$9,258.50 requested here. (/d. at || 2). As a result, net payable amount would be \$1,108.50. The SSA takes no position on this request. (Doc. 21 at 3). Therefore, the Court will grant Plaintiff’s request and award Plaintiff’s counsel \$1,108.50, which represents the net sum of the \$9,258.50 fee award 11 |} under § 406(b) minus the \$8,150.00 in fees received under the EAJA. 12 Accordingly, 13 IT IS HEREBY ORDERED that Plaintiff’s Motion for Attorney Fees (Doc. 19) is granted under 42 U.S.C. § 406(b). Plaintiff’s counsel Robin Larkin is awarded \$1,108.50 15 } in attorney fees, representing the net amount of the total \$9,258.50 in §406(b) fees minus the \$8,150.00 in EAJA fees, to be paid out of the sum from Plaintiff’s past-due benefits. 17 Dated this 9th day of April, 2026. 18 19 oC. . oe 20 norable’ Diang4. Huntetewa 1 United States District Judge 22 23 24 25 26 27 28 _3-