

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, SOUTHERN DIVISION

Gina D. v. Frank Bisignano, Commissioner of Social Security

Gina D. · No. 1:22-cv-611-JTA · Decided January 12, 2026

SUMMARY

The United States District Court for the Middle District of Alabama grants attorney Anna Ludlam King’s motion for fees under 42 U.S.C. § 406(b) after the court remanded a Social Security disability case and the claimant subsequently received past-due benefits. The court approves an award of \$8,640.40, representing the remaining portion of the 25% contingent fee after offsetting fees previously awarded under the Equal Access to Justice Act.

CASE DETAILS

COURT	United States District Court for the Middle District of Alabama, Southern Division
JURISDICTION	United States District Court for the Middle District of Alabama, Southern Division
DECIDED	January 12, 2026
DOCKET	1:22-cv-611-JTA
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for authorization of an attorney's fee award under 42 U.S.C. § 406(b) after the court had reversed the Commissioner's adverse disability determination and remanded for further proceedings, resulting in a fully favorable decision and an award of past-due benefits. The Commissioner did not oppose the motion.
STANDARD OF REVIEW	The court independently reviewed the character of the representation, the results achieved, and the reasonableness of the requested contingent fee under <i>Gisbrecht v. Barnhart</i> .
PRECEDENTIAL VALUE	unpublished district court memorandum opinion and order
PARTIES	Gina D. v. Frank Bisignano, Commissioner of Social Security

TOPICS

attorney fees

judicial review of agency action

remedies

civil procedure

PRACTICE AREAS

Social Security

administrative law

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QUESTIONS PRESENTED

1. Whether the court could award attorney's fees under 42 U.S.C. § 406(b) after remanding the case to the Commissioner and the Commissioner subsequently awarded past-due benefits.
2. Whether the requested contingent fee, after offsetting the previously awarded EAJA fees, was reasonable under § 406(b) and *Gisbrecht*.

HOLDINGS

1. A district court may award attorney's fees under 42 U.S.C. § 406(b) when it remands a Social Security case to the Commissioner and the Commissioner subsequently awards the claimant past-due benefits.
2. When counsel has received an EAJA fee award and later seeks fees under § 406(b), the EAJA amount must be repaid to the claimant or offset against the § 406(b) fee.
3. The requested remaining fee of \$8,640.40 was reasonable under the circumstances and was approved.

KEY QUOTATIONS

“To receive a fee under this statute, an attorney must seek court approval of the proposed fee, even if there is a fee agreement between the attorney and the client.” (at 2)

*“The Court’s judgment about reasonableness is informed by *Gisbrecht*’s conclusion that Congress did not mean to “outlaw” lawful contingent fee agreements.”* (at 3)

FACTUAL BACKGROUND

Gina D. retained Anna Ludlam King to represent her in appealing an adverse disability determination. The representation agreement provided for a fee equal to 25 percent of past-due benefits if the appeal succeeded in federal court. After the court remanded the case, the Commissioner issued a fully favorable decision and awarded past-due benefits; counsel sought a total fee of \$12,782.50, including an offset of \$4,142.10 in previously awarded EAJA fees and payment of the remaining \$8,640.40 from the past-due benefits.

PROCEDURAL HISTORY

The court previously reversed the Social Security Administration's administrative determination and remanded the case to the Commissioner under 42 U.S.C. § 405(g). On remand, the Commissioner issued a fully favorable decision and awarded past-due benefits. Plaintiff's counsel then sought approval of a contingent fee under § 406(b), reduced by the amount previously awarded under the Equal Access to Justice Act.

DISPOSITION

other

CASES CITED

- Bergen v. Commissioner of Social Security, 454 F.3d 1273, 1277 (11th Cir. 2006)
- Culbertson v. Berryhill, 586 U.S. 53 (2019)
- Gisbrecht v. Barnhart, 535 U.S. 789, 796, 807-809 (2002)
- Jackson v. Commissioner of Social Security, 601 F.3d 1268 (11th Cir. 2010)
- Gossett v. Social Security Administration, Commissioner, 812 F. App'x 847, 850 (11th Cir. 2020)

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